



Senate  
Research  
Center

July 1997

**Highlights  
of the  
75th  
Texas Legislature  
Regular Session**

**A Summary of the  
Most Significant Legislative Action**

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**General Appropriations Act - H.B. 1***by Representative Junell**Senate Sponsor: Senator Ratliff*

- Δ Final recommended appropriations for the 1998-99 biennium total \$86.2 billion from all fund sources—a \$5.5 billion, or 6.8 percent, increase in state funding from the 1996-97 biennial level. These numbers do not include the over \$1 billion in property tax relief provided through H.B. 4 or Governor Bush's vetoes. (See Figures 1 and 2.)
- Δ General revenue funding, including funds dedicated within the general revenue fund, totals \$53.1 billion for the 1998-99 biennium—a \$3.6 billion, or 7.3 percent increase in funding over the 1996-97 biennial level. State-funded education received the largest share of general revenue funding equal to \$31.7 billion, or 59.6 percent, for the 1998-99 biennium. These numbers do not reflect Governor Bush's vetoes. (See Figures 3 and 4.)

**Factors Affecting Growth in the State Budget**

- Δ A significant factor affecting the growth of the state budget is the growth in the number of people using government resources. The following table shows the major growth indicators comparing fiscal year 1988 with 1997. Other cost-related factors, such as debt service, employee benefits, and capital budget items also impacted budget growth.

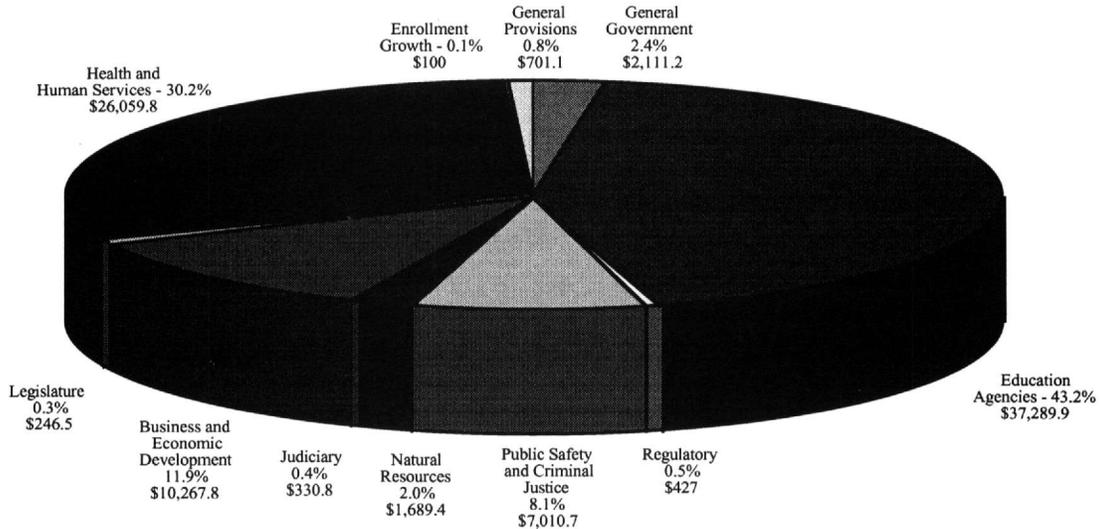
<b>Major Budget Growth Indicators</b>	<b>Actual 1988</b>	<b>Estimated 1997</b>	<b>Percent Change</b>
Average Daily Attendance - Public Schools	2,991,325	3,521,191	17.7%
Fall Headcount Enrollment - State Universities	368,344	397,731	8.0%
Fall Headcount Enrollment - Community/Junior Colleges	302,085	412,464	36.5%
Average Monthly Caseload - Temporary Assistance for Needy Families (Formerly Aid to Families with Dependent Children - AFDC)	504,551	606,518	20.2%
Average Monthly Caseload - Nursing Home Clients	56,277	70,190	24.7%
Average Monthly Caseload - Medicaid Clients	928,057	1,998,535	115.3%
Inmate Population - Department of Criminal Justice	39,664	137,243	246%
Average Daily Population - Texas Youth Commission Institutions	1,182	3,675	210.9%

*Source: Legislative Budget Board*

- Δ The Texas Constitution requires a balanced budget, which must fall within a spending limit adopted by the Legislative Budget Board. This budget meets both requirements.

**Figure 1**

## Biennial Recommendations for 1998-99 All Funds - \$86.2 Billion (In Millions)\*



\* Numbers do not reflect Governor Bush's vetoes.

**Figure 2**

## Comparison of All Funds 1998-99 Recommended to 1996-97 Budgeted/Expended (In Millions)\*

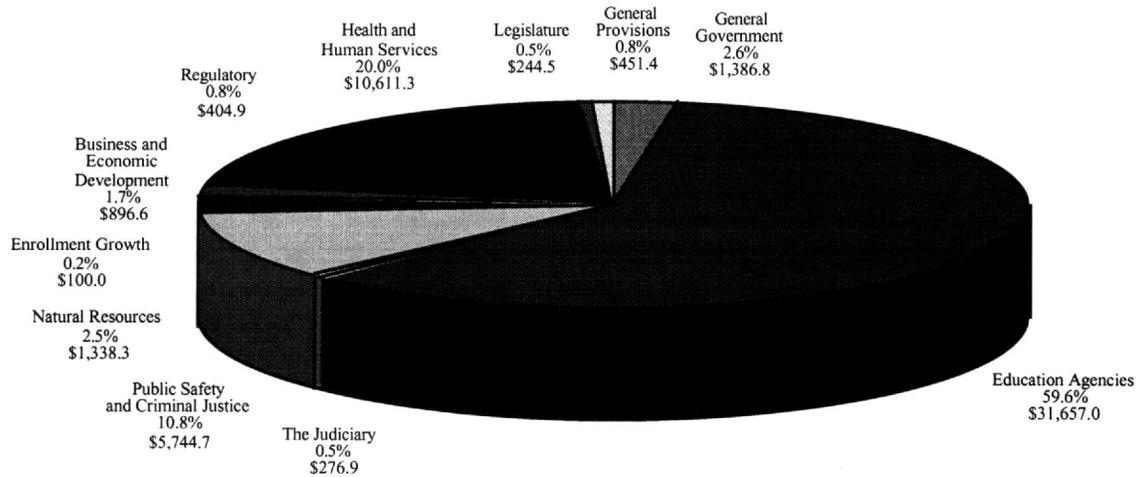
Appropriation Areas	Budgeted/ Expended 96-97	Recommended 98-99	Biennial Change**	Percent Change**
General Government•	2,033.1	2,111.2	78.2	3.8%
Health and Human Services•	25,012.7	26,059.8	1,047.1	4.2%
Education	34,802.0	37,289.9	2,487.9	7.1%
Public Education	23,702.0	25,384.0	1,682.0	7.1%
Higher Education	11,100.0	11,905.9	805.9	7.3%
The Judiciary	272.6	330.8	58.2	21.4%
Public Safety and Criminal Justice•	6,657.4	7,010.7	353.3	5.3%
Natural Resources•	1,590.8	1,689.4	98.6	6.2%
Business and Economic Development•	9,762.5	10,267.8	505.3	5.2%
Regulatory	397.0	427.0	30.1	7.6%
General Provisions	0.0	701.1	701.1	N/A
The Legislature	242.2	246.5	4.2	1.7%
Contingency - Enrollment Growth	0.0	100.0	100.0	N/A
<b>TOTAL</b>	<b>80,770.3</b>	<b>86,234.4</b>	<b>5,464.1</b>	<b>6.8%</b>

- 1996-97 amounts include emergency appropriations in S.B. 886.
- Totals may not add due to rounding.
- \* Numbers do not reflect Governor Bush's vetoes.
- \*\* Biennial change and percent change calculated on actual amounts before rounding.

Source: Legislative Budget Board

**Figure 3**

## Biennial Recommendations for 1998-99 General Revenue & GR-Dedicated Funds - \$53.1 Billion (In Millions)\*



\* Numbers do not reflect Governor Bush's vetoes.

**Figure 4**

## Comparison of General Revenue & General Revenue-Dedicated Funds 1998-99 Recommended to 1996-97 Budgeted/Expended (In Millions)\*

Appropriation Areas	Budgeted/ Expended 96-97	Recommended 98-99	Percent Change**
General Government•	1,415.3	1,386.8	-2.0%
Health and Human Services•	10,298.0	10,611.3	0.0%
Education	29,455.3	31,657.0	0.0%
<i>Public Education</i>	19,262.3	20,780.0	0.0%
<i>Higher Education</i>	10,193.0	10,877.0	0.0%
The Judiciary	229.1	276.9	0.0%
Public Safety and Criminal Justice•	5,369.5	5,744.7	0.0%
Natural Resources•	1,306.1	1,338.3	0.0%
Business and Economic Development•	824.3	896.6	0.0%
Regulatory	373.0	404.9	0.0%
General Provisions	0.0	451.4	N/A
The Legislature	239.4	244.5	0.0%
Contingency - Enrollment Growth	0.0	100.0	N/A
<b>TOTAL</b>	<b>49,510.1</b>	<b>53,112.5</b>	<b>7.3%</b>

- 1996-97 amounts include emergency appropriations in S.B. 886.
- Totals may not add due to rounding.
- \* Numbers do not reflect Governor Bush's vetoes.
- \*\* Biennial change and percent change calculated on actual amounts before rounding.

**Source: Legislative Budget Board**

# BUDGET

## *Texas Performance Review (TPR) Proposals*

Δ The 1998-99 budget includes 28 Texas Performance Review recommendations having fiscal impact. These TPR recommendations total \$152.5 million in general revenue savings and gains and \$33.8 million in appropriations, for a net gain of \$118.7 million. Sixteen TPR proposals were added to the bill with uncertain or no fiscal impact.

### **Texas Performance Review 1998-99 Proposals Included in Recommended General Revenue Budget (In Millions)**

<b>TPR Recommendations</b>	<b>Savings (Appropriations)</b>
Enhance State Tax Collections	\$40.1
Use Selective Contracting for Some Medicaid Services	30.0
Reduce Medicaid Overpayments	24.7
Eliminate Funding for Excessive Undergraduate Credit Hours	15.1
Maximize Return on Prison Land	8.5
Improve Medicaid and Welfare Enforcement	6.2
Ensure Appropriate Nursing Home Reimbursement and Quality	5.1
Improve the Recovery of Erroneously Paid Public Assistance Benefits	1.2
Ensure Appropriate Use of Medicare-Funded Services and Equipment	4.5
Reform State and Local Health Care Purchasing	3.8
Increase Recovery of State Housing Costs	3.6
Require Prisoners to Pay for Some Health Care Services	2.9
Reduce Drug Reimbursement Costs	1.5
Establish Child Care Training Centers for Recipients of Public Assistance	1.3
Improve Consumer Information on Child Care Centers	0
Improve Tax Refunds for AFDC Recipient Employers	0.8
Purchase the Most Cost-effective Substitute Care	0.6
Improve Access to Automated Teller Machines in State Facilities	0.3
Increase the Number of Texas Children Covered by Health Insurance	0.1
Eliminate Vacant State Positions*	0.0
<b>Subtotal: Savings</b>	<b>\$152.5</b>
Make the Texas Poison Center Network a National Resource	(0.1)
Streamline Grocery Store Regulation	(0.6)
Improve Health Agencies' Subrogation Collection Efforts	(1.0)
Reduce Tobacco Use by Texas Youth	(3.8)
Establish the Texas Child Care Fund	(7.3)
Increase Funding for Tuition Equalization Grants	(20.0)
Reduce Drug Reimbursement Costs	(1.0)
<b>Subtotal: Appropriations</b>	<b>(33.8)</b>
<b>TOTAL</b>	<b>118.7</b>

\*Used in establishing FTE caps for individual agencies.

*Source: Legislative Budget Board*

**Note:** The following discussion and numbers do not reflect Governor Bush's vetoes.

## *Education: Public Schools and Higher Education*

Δ **Public Schools.** All funds for public education total \$25.4 billion, an increase of \$1.7 billion or 7.1 percent, above the 1996-97 biennium. General revenue-related and consolidated funds total \$20.8 billion, including a \$1.5 billion, or 7.9 percent increase in public school funding.

- Δ Includes \$814 million for projected enrollment growth of 156,000 students.
- Δ Provides \$370 million to finance school facilities, an increase of \$200 million.
- Δ Increases minimum teacher salaries.
- Δ Funds the Governor's Reading Initiative with \$32 million.
- Δ Provides \$36 million for Safe Schools programs, an increase of 30 percent.
- Δ Increases funding for the student technology allotment by \$5.2 million.
- Δ Increases contributions to the Teacher Retirement System by \$180.7 million.
- Δ Creates a \$100 million contingency fund for possible unforeseen enrollment increases.

Δ **Higher Education.** All funds for higher education total \$11.9 billion, an increase of \$806 million, or 7.3 percent, above the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$10.9 billion representing an increase of \$684 million, or 6.7 percent, above the 1996-97 level.

- Δ Adds \$160.7 million to fund new incentives for higher graduation rates and increased availability of classes taught by tenured faculty.
- Δ Provides costs for payment of debt service to allow colleges to finance \$638.5 million in new facilities.
- Δ Provides \$165.1 million for junior college enrollment growth and formula funding increases.

- Δ Adds \$60.2 million for health science centers and \$25 million for graduate medical education.
- Δ Increases contributions to the Optional Retirement Program by \$31.2 million and the Teacher Retirement System by \$31.9 million, and increases funding for health insurance by \$15.8 million for higher premium costs.

## *Health and Human Services*

- Δ The second largest function of government supported by the state budget is health and human services, which amounts to \$26.1 billion of all funds, an increase of \$1 billion, or 4.2 percent, above the 1996-97 biennium. General revenue-related and consolidated funds appropriations to health and human services total \$10.6 billion, which represents an increase of 3 percent above the 1996-97 level. These numbers include emergency appropriations for the 1996-97 biennium authorized by S.B. 886.
  - Δ Provides \$146.4 million for community care services for 14,815 additional clients.
  - Δ Adds \$177.3 million for increased nursing home caseloads and federal minimum wage increases.
  - Δ Provides \$44.2 million for 3,800 new foster care and adoption placements.
  - Δ Adds \$11 million to fund 246 new child protective services caseworkers.
  - Δ Provides \$52.5 million for increased Medicaid costs.
  - Δ Continues services for elderly, disabled, and young legal immigrants who could lose Medicaid coverage due to federal welfare restrictions.
  - Δ Saves \$107 million as a result of lower AFDC caseloads and approval of Texas Performance Review recommendations.

## *Business and Economic Development*

- Δ All funds for business and economic development total \$10.3 billion, an increase of \$505 million or 5.2 percent, over the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$897 million, which is an increase of \$72.3 million, or 8.8 percent, above the 1996-97 level. These numbers include emergency appropriations for the 1996-97 biennium authorized by S.B. 886. The bill provides full biennial funding for the Texas Workforce Commission.

## *Public Safety and Criminal Justice*

- △ All funds for public safety and criminal justice total \$7 billion, an increase of \$353 million or 5.3 percent, over the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$5.7 billion, which is an increase of \$375 million, or 7 percent, above the 1996-97 level.
  - △ Includes \$159.6 million to fund 22,500 existing state jail beds and open 2,500 more.
  - △ Provides \$53.7 million to supervise 10,800 additional parolees and 4,600 more probationers, including \$19.1 million for more intensive supervision.
  - △ Adds \$88.2 million for the Texas Youth Commission (TYC) to operate 2,144 additional beds.
  - △ Includes \$33.3 million in bond funds to repair or renovate prison facilities.
  - △ Adds \$68.3 million in bond funds to construct two prison units with 1,320 beds and one TYC facility with 330 beds.

## *The Judiciary*

- △ All funds for the judiciary total \$331 million, an increase of \$58 million, or 21.4 percent, over the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$277 million, which is an increase of \$47.8 million, or 20.9 percent, above the 1996-97 level.
  - △ Includes \$13.5 million for a salary increase for state judges and prosecutors, and an additional \$15 million, if the comptroller certifies that it becomes available.

## *Regulatory Agencies*

- △ All funds for regulatory agencies total \$427 million, an increase of \$30 million, or 7.6 percent, over the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$405 million, which is an increase of \$31.9 million, or 8.6 percent, above the 1996-97 level.
  - △ Includes provisions to make regulatory agencies cover the cost of agency appropriations, including indirect costs, with agency revenues.

## *General Government*

△ General government agencies include the Office of the Governor, and the administrative support agencies of state government such as the Comptroller of Public Accounts, Attorney General's Office, General Services Commission, and other agencies. All funds for general government total \$2.1 billion, an increase of \$78.2 million, or 3.8 percent, when compared to the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$1.4 billion, a reduction of \$28.6 million, or 2 percent, when compared to the 1996-97 biennium. These numbers include emergency appropriations for 1996-97 authorized by S.B. 886.

- △ Includes \$345.7 million for a state employee and non-faculty college employee pay raise.
- △ Lowers the cap on the number of state employees by 4,350.
- △ Provides \$2.7 million bond debt service to construct the state history museum.
- △ Sets aside \$57.2 million to prepare state computers to convert to the "Year 2000."

## *Natural Resources*

△ All funds for natural resources total \$1.7 billion, an increase of \$98.6 million, or 6.2 percent, over the 1996-97 biennium. General revenue-related and consolidated funds appropriations total \$1.3 billion, which is an increase of \$32.1 million, or 2.5 percent, above the 1996-97 level. These numbers include emergency appropriations for 1996-97 authorized by S.B. 886.

- △ Provides \$34 million to fund the statewide water plan.

**Note:** Governor Bush vetoed \$44.1 million of the above amount to reflect the fact that the Scrap Tire Recycling Bill (S.B. 1586) did not pass.

## EMS and Trauma Care System Fund - S.B. 102

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Kamel*

- △ Creates the emergency medical services and trauma care system fund (fund) as a special account in the state treasury and allows revenue generated from the 9-1-1 emergency service fee to be appropriated to the fund.
- △ Requires the commissioner of the Texas Department of Health (TDH) to use money in the fund for county and regional emergency medical services and trauma care systems. The chief executive of the county determines how the money is to be spent, except for counties with a population of 291,000 or more, where joint authorization of the chief executive and mayor of the principal municipality in that county is required. Requirements and restrictions on use of the money include the following:
  - △ maintenance of \$250,000 reserve in the fund for extraordinary emergencies;
  - △ 70 percent of the money is to be allotted to counties based on size, population, and emergencies to fund the cost of supplies, operational expenses, education and training, equipment, vehicles, and communications systems for local emergency services;
  - △ 25 percent of the money is to be allotted for operation of the 22 trauma support areas and for equipment, communications, and education and training for the areas;
  - △ no more than 3 percent of money may be spent on administrative costs to the bureau of emergency management at TDH for administering the state emergency medical services program, the trauma program, and the fund; and
  - △ at least 2 percent of money is to be allotted to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by TDH.
- △ Prohibits TDH from distributing money from the fund, for a period of one to three years, to a county, municipality, or local recipient that has used money for a non-approved purpose.
- △ Imposes a \$2 fee for issuing or renewing a driver's or commercial driver's license, or a commercial driver learner's permit to be deposited in the fund.

## Emergency Appropriations - S.B. 886

*by Senator Ratliff*

*House Sponsor: Representative Junell*

- △ Authorizes emergency appropriations for certain state programs:
  - △ \$5,106,092 of the federal funds from the TANF block grant to the Texas Workforce Commission for the Job Opportunities and Basic Skills Program, and \$18,681,494 to the Department of Protective and Regulatory Services for substitute care services; and \$4,998,517 (general revenue), \$5,052,187 (federal receipts), and \$116,716 (from interagency contracts) to TYC for maintaining the "Six-Month Minimum Length of Stay" objective. In addition, \$2,788,748 to the Employee Retirement System, and \$1,293,718 to the Comptroller of Public Accounts, is appropriated for related employee benefits.
  - △ \$500,000 to the Texas Water Development Board from the Governor's trusted programs for funding a contract between the board and the Edwards Aquifer Authority. The bill also provides for repayment.
  - △ \$992,000 is appropriated out of the general revenue fund to the Department of Information Resources for the purpose of developing and implementing a plan to make the state's information resource systems compatible with the year 2000. An additional \$253,000 is appropriated out of the general revenue fund to the department to cover the costs of developing and implementing the plan.
  - △ \$550,000 is appropriated out of the general revenue fund to the Texas Natural Resource Conservation Commission (TNRCC) for the purpose of financing regional precipitation enhancement programs through grants to political subdivisions that agree to provide local funding for the same purposes in an amount not less than the amount of state funding provided to that political subdivision.
  - △ \$10,827,069 is appropriated to the Attorney General from the general revenue fund for payment of workers' compensation benefits.
  - △ \$5,600,000 is appropriated out of the general revenue fund to the Texas Department of Transportation (TxDOT) for the purpose of providing a loan to certain corporations. Amounts appropriated to TxDOT by this section may be expended only for the purpose of funding payments under a loan agreement that provides for the repayment of the loan, not later than August 31, 1999.

- Δ Allows the Telecommunications Infrastructure Fund Board to pay salaries of not more than 18 FTEs during the current biennium out of funds previously appropriated.

## Emergency Appropriations - S.B. 1898

*by Senator Ratliff*

*House Sponsor: Representative Junell*

- Δ Authorizes emergency appropriations and other actions for the following programs of the state:
  - Δ \$3,517,300, from the TANF block grant, to the Department of Human Services for the purpose of making modifications to automation systems necessary to administer federal grants.
  - Δ \$653,211 in bond proceeds to the Texas Department of Criminal Justice for paying a settlement in Lucia, Inc. v. Manhattan Construction Company, Inc., et al. v. The State of Texas, et al.
  - Δ \$275,000 of general revenue funds (GR) to the Texas Higher Education Coordinating Board (THECB) for the Texas Pre-freshman Engineering Program.
  - Δ \$10,000,000 of GR to THECB for the Tuition Assistance Grant program.
  - Δ \$2,500,000 of GR to THECB for the supporting centers for teacher education at private, independent, general academic institutions that are component institutions of the Texas Association of Developing Colleges.
  - Δ \$10,400,000 of GR to Texas Southern University for funding existing financial obligations of the university.
  - Δ \$2,500,000 of GR to the Board of Regents of the Texas A&M University System for funding scholarships for needy students.
  - Δ \$300,000 of GR to Texas A&M University at Galveston for restoration and rehabilitation of certain severe shoreline erosion.
  - Δ Allows the reappropriation of unexpended balances of GR appropriated by the 74th Legislature for the student center at Sul Ross State University.
  - Δ \$2,000,000 of GR to the Governor's Office to provide disaster funding.

# BUDGET

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- Δ \$11,000,000 out of the Clean Air Account to TNRCC for making a payment to MARTA Technologies, Inc.
- Δ Requires the comptroller to transfer the unobligated balance deposited to the Waste Tire Recycling Fund Account to the undedicated portion of GR, less \$9,065,460 appropriated out of the account to TNRCC for making payments to end users of shredded tire pieces and of whole scrap tires, if the account expires on January 1, 1998. Requires all unobligated and unexpended balances as of December 31, 1997, from the appropriation to TNRCC to be transferred to TxDOT and deposited to the credit of the scrap tire recycling account.
- Δ Requires the Texas Education Agency (TEA) to expend all funds appropriated for Strategy A.1.2 regarding textbooks in 1995, for the purchase of textbooks during the current fiscal biennium. Requires the State Board of Education to increase the per capita rate for distribution of the available school fund to distribute all projected revenues during the current biennium. Prohibits use of funds appropriated from the available school fund, the textbook fund, or the foundation school fund for the current biennium for payment of a technology allotment in excess of the \$30 per student.
- Δ Prohibits any of the funds appropriated to TEA by the 74th Legislature regarding the accountability system, to be expended by TEA, and requires the appropriation to lapse to GR.
- Δ \$70,000,000 from the Clean Air Account, the Petroleum Storage Tank Remediation Fund, and the Hazardous and Solid Waste Remediation Fee Fund, to the comptroller for making partial payment of the settlement agreement entered in Tejas Testing Technology One, L.C., et al. v. The State of Texas.
- Δ \$300,000 out of the Clean Air Account to TNRCC for paying outside legal counsel to represent the state in the matter of Tejas Testing Technology One, L.C., et al. v. TNRCC, et al.
- Δ \$10,481,134 out of the Hazardous and Solid Waste Remediation Fee Fund to TNRCC for the purpose of making partial payment of the settlement agreement entered in Tejas Testing Technology One, L.C., et al. v. The State of Texas, et al.
- Δ Allows TNRCC to use, from the amounts appropriated out of the Petroleum Storage Tank Remediation Fund, the sum of \$33,684,778 for making partial payment of the settlement agreement entered in Tejas Testing Technology One, L.C., et al. v. The State of Texas, et al.

- Δ \$10,000,000 out of the general revenue fund to the comptroller for the purpose of making payments to operating contractors of local stations in full satisfaction of the parties' claims arising out of Tejas Testing Technology One, L.C., et al. v. The State of Texas, et al.
- Δ Amends H.B. 1, the General Appropriations Act, by adding rider provisions to TDH regarding the contingent appropriation and transfer of certain responsibilities of TNRCC to TDH; and the contingent imposition, use, and appropriation of fees imposed on certain milk and milk products.
- Δ Amends H.B. 1 by increasing appropriations to Lamar University at Port Arthur; decreasing appropriations to the Public Integrity Unit in the District Attorney's Office of the 53rd Judicial District; adding a rider provision to the Department of Public Safety regarding an appropriation for the purpose of implementing S.B. 35; and adding a rider provision to TxDOT regarding an appropriation contingent upon passage of S.B. 370, for the purpose of implementing scrap tire recycling duties.

## Limiting State Investments in Certain Music Companies -

S.B. 1993  
(Died in the House)  
Senator [Name], et al.

**Not Finally Passed**

- Δ Prohibits the comptroller, the state or an entity of the state, and the boards of trustees for the Texas County and District Retirement System and Texas Municipal Retirement System from using state funds to invest in or purchase securities of a private corporation or business entity that directly or indirectly writes, records, produces, advertises, markets, sells, or otherwise promotes any musical work that explicitly describes, glamorizes, or advocates acts of criminal violence, including murder, assault, assault on peace officers, sexual assault, and robbery; necrophilia, bestiality, or pedophilia; illegal use of controlled substances; criminal street gang activity; degradation or denigration of females; or violence against a particular sex, race, or ethnic group.
- Δ Requires a governmental entity or retirement system that owns such an investment to divest the investment as soon as reasonable and practical, but not later than January 1, 1999.

## **Crime Victims Compensation Fund - S.J.R. 33 and S.B. 987**

*by Senator Moncrief, et al.*

*House Sponsor: Representative Gallego*

- Δ Proposes the establishment of a constitutional dedication of the Crime Victims Compensation Fund and the Crime Victims Compensation Auxiliary Fund and provides that proceeds from those funds may only be expended for the purposes of compensating victims of crime or of adjudicated juvenile misconduct and for providing services to those victims. **Ballot Date: November 4, 1997.**
- Δ Requires the attorney general, after consulting with the comptroller of public accounts, to certify each year how much money will be necessary to make awards to crime victims.
- Δ Authorizes the legislature to appropriate amounts in the fund over that which is certified for the current awards program if the receiving program or purpose provides substantial and direct benefits, services, or assistance to crime victims or other persons affected by crime.

## **Unfunded Mandates on Local Government- H.B. 66**

*by Representative Cuellar, et al.*

*Senate Sponsor: Senator Zaffirini*

- Δ Establishes an interagency work group to catalogue and review unfunded mandates imposed by the Texas Legislature on local governmental bodies.

## **Disaster Relief Programs - H.B. 99**

*by Representative Gray, et al.*

*Senate Sponsor: Senator Armbrister*

- Δ Sets forth regulations regarding the activation and operation of disaster relief programs and provides for funding of the disaster management fund.
- Δ Allows the governor to request federal assistance if the governor determines that a situation is of such severity and magnitude that an effective response is beyond the capabilities of the state and the affected political subdivision and that federal assistance is necessary.

- △ Allows the governor, under certain circumstances, to:
  - △ issue grants to meet disaster-related necessary expenses or other serious need of individuals or families adversely affected by the disaster;
  - △ provide funds to a political subdivision for expenses incurred in the repair or replacement of a damaged highway, street, or water control structure; and
  - △ provide funds for hazard mitigation measures.
- △ Sets forth regulations regarding funding of the disaster management fund and use of the fund.
- △ Provides for an assessment on certain public utilities to be deposited in the disaster management fund.

## **Creation and Recreation of Certain Funds and Accounts - H.B. 2948**

*by Representative Sylvester Turner  
Senate Sponsor: Senator Ratliff*

- △ Provides regulations for the creation and recreation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.
- △ Abolishes all funds and accounts created or recreated in the state treasury by an Act of the 75th Legislature and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by the 75th Legislature. Sets forth exemptions for certain funds, accounts, dedications, and fees.

## **Crime Victims' Compensation Act - H.B. 3062**

*by Representative Hightower, et al.  
Senate Sponsor: Senator Whitmire*

- △ Provides that the Compensation to Victims of Crime Fund and the auxiliary fund are the payers of last resort.
- △ Amends the time period in which a claimant or victim may file an application for compensation.

- Δ Prohibits an award of compensation payable to certain victims or claimants sustaining pecuniary loss because of injury or death from exceeding \$50,000, rather than \$25,000, in the aggregate.
- Δ Allows the attorney general to make payments to a provider on an individual's behalf.
- Δ Sets forth provisions regarding the attorney general's duties when assessing, denying, or reducing an award.
- Δ Authorizes the Compensation to Victims of Crime Fund to be used by the attorney general for the operation of the Crime Victims' Institute created by Chapter 412, Government Code.
- Δ Sets forth provisions allowing for an emergency reserve fund not to exceed \$10,000,000.

## **Texas Tomorrow Fund - H.J.R. 8 and H.B. 8**

*by Representative Stiles, et al.*

*Senate Sponsor: Senator Barrientos, et al.*

- Δ Proposes a constitutional amendment to transfer to the Texas Tomorrow fund the first money deposited into the state treasury that is not otherwise appropriated by the constitution. **Ballot Date: November 4, 1997.**
- Δ Requires the comptroller to transfer to the Texas Tomorrow fund the first money deposited into the state treasury that is not otherwise appropriated by the constitution.

## **Debt Limit - H.J.R. 59**

*by Representative Delisi, et al.*

*Senate Sponsor: Senator Ratliff*

- Δ Prohibits the legislature from authorizing additional state debt payable from the general revenue fund, if the resulting annual debt service exceeds 5 percent of the average of general revenues for the three preceding fiscal years. The average excludes revenues constitutionally dedicated for purposes other than payment of state debt. **Ballot Date: November 4, 1997.**

**Inmate Conduct - S.B. 51**

*by Senator Shapiro*

*House Sponsor: Representative Allen*

- △ Provides for the forfeiture of good conduct time by an inmate who contacts his victim, if the victim was younger than 17 at the time of the commission of the offense. The bill also provides for exceptions for cases in which the Texas Department of Criminal Justice (TDCJ) has received written consent from the victim's parent or the victim.

**TDCJ Purchasing Authority - S.B. 67**

*by Senator Moncrief, et al.*

*House Sponsor: Representative Gallego*

- △ Repeals the TDCJ's direct purchasing authority. TDCJ currently has the authority to bypass competitive purchasing procedures established under the State Purchasing and General Services Act by declaring a particular purchase an "emergency.")

**Intentional Arson of Church Property - S.B. 78**

*by Senator Ellis, et al.*

*House Sponsor: Representative McClendon*

- △ Establishes a punishment for the crime of intentional arson of a place of worship.
- △ Makes it a first degree felony if it is shown in a trial that death or bodily injury to a person occurred as a result of the commission of arson; or the actor(s) committed the offense knowing that the property to be damaged or destroyed was a place of worship.

**Stalking - S.B. 97**

*by Senator Moncrief, et al.*

*House Sponsor: Representative McCall, et al.*

- △ Makes it an offense for an individual, on more than one occasion and pursuant to the same scheme or course of conduct directed specifically at another person, to knowingly engage in conduct, including following the other person, that:
  - △ the actor knows or reasonably believes that other person will regard as threatening bodily injury or death to the other person or a member of the person's family or household or an offense against the other person's property;

- Δ causes the other person or that person's family or household member to be placed in fear of bodily injury or death or an offense against the person's property; and
  - Δ would cause a reasonable person to fear bodily injury or death to himself or herself or that person's family or household member or an offense against that person's property.
- Δ Makes stalking a Class A misdemeanor, unless the actor has been previously convicted of stalking, in which case it is a third degree felony.

## **Notification of Inmate Release - S.B. 113**

*by Senator Moncrief, et al.*

*House Sponsor: Representative Burnam*

- Δ Adds police chiefs in the county where the inmate was convicted and the county to which the inmate is to be released or sent to a halfway house to the list of officials who are required to be notified when an inmate is about to be released or transferred to a halfway house.

## **Cruelty to Animals - S.B. 143**

*by Senator Harris*

*House Sponsor: Representative Keel*

- Δ Increases the punishment for the offense of cruelty to animals from a Class A misdemeanor to a state jail felony if a person has two prior convictions for cruelty to animals.

## **Eligibility for Occupational Driver's Licenses - S.B. 322**

*by Senator Armbrister*

*House Sponsor: Representative Holzheuser*

- Δ Allows a person whose driver's license was suspended or canceled as a result of a conviction for a crime, and who has an essential need for operating a motor vehicle, to apply for an occupational license.

## **Criminal History Access - S.B. 476**

*by Senator Madla*

*House Sponsor: Representative Allen*

- Δ Allows the Texas Commission on Alcohol and Drug Abuse (TCADA) to conduct criminal background checks on applicants for and holders of chemical dependency counselor licenses.

- Δ Prohibits the criminal history information obtained by TCADA from being released or disclosed except under court order with the consent of the individual who is the subject of the background check.
- Δ Allows TCADA to provide the applicant or licensee with a copy of the criminal history record information obtained.
- Δ Allows TCADA to charge a fee to the individual on whom the criminal background check is being conducted in order to recover the costs of obtaining the criminal history information.

## **Unlawful Transfer of Weapons to Children - S.B. 548**

*by Senator Shapiro*

*House Sponsor: Representative Jesse Jones*

- Δ Increases the penalty for unlawfully transferring a handgun to a child younger than 18 years of age from a Class A misdemeanor to a state jail felony.

## **Magistrate's Order for Emergency Protection - S.B. 550**

*by Senator Moncrief*

*House Sponsors: Representatives McCall and Burnam*

- Δ Expands the magistrate's authorization to issue an order for emergency protection to include not only protection from acts of family violence, but also from assault.
- Δ Requires the magistrate issuing the order for emergency protection to direct an appropriate peace officer to make a good faith effort to notify the victim, within 24 hours, that the order has been issued.

## **Child Endangerment - S.B. 612**

*by Senator Harris*

*House Sponsor: Representative Van de Putte*

- Δ Clarifies that a child's participation or practice in a sporting event, under proper standards of safety and supervision, is not intended to constitute child endangerment.
  - Δ Provides a defense to prosecution for child endangerment if the act or omission in question enables the child to practice for or participate in an organized athletic event in which appropriate safety equipment and procedures are employed.

**Abatement of Common Nuisances - S.B. 642**

*by Senator Harris*

*House Sponsors: Representatives Carter and Brimer*

- △ Expands the offense of maintaining a common nuisance to include a place to which people habitually go to for possession or manufacture of a controlled substance.
- △ Expands the offense of maintaining a common nuisance to include multiunit residential property to which people habitually go to commit sexual assault, aggravated sexual assault, robbery, aggravated robbery; or unlawfully carrying a weapon.
- △ Provides that this applies only to multiunit residential property, as defined by state law, in municipalities with a population of at least 440,000.

**Incarceration of First-Time Offenders - S.B. 663**

*by Senator Whitmire*

*House Sponsors: Representatives Place and Hightower*

- △ Makes probation discretionary; allows the incarceration of first-time offenders; and authorizes a judge to require a defendant to be confined in a state jail during any period of the defendant's sentence, rather than only at the beginning of the community supervision period.

**TDCJ Audit Functions - S.B. 703**

*by Senator Nelson*

*House Sponsor: Representative Cuellar*

- △ Consolidates all TDCJ audit and program review functions, including internal auditing, contract auditing, and Community Justice Assistance Division auditing, under an Internal Audit Division, whose director would be hired and serve at the pleasure of the TDCJ Board.
- △ Adds another level of accountability over TDCJ's revenue, expenditures, and account balances by requiring all of the agency's funds to be deposited into the state's general revenue fund, in trust with the comptroller, or in a local bank account.

**Penalties for Graffiti Offenses - S.B. 758**

*by Senator Shapleigh, et al.  
House Sponsor: Representative Serna, et al.*

- △ Increases criminal penalties for graffiti offenses.
- △ Creates a graffiti eradication fund from a \$5 fine levied against graffiti offenders.
- △ Authorizes the Department of Public Safety to suspend the driver's license of a juvenile convicted of a graffiti offense.
- △ Requires businesses to restrict access to aerosol paint.

**Denial of Driver's License Renewal - S.B. 881**

*by Senator Brown  
House Sponsor: Representative Oakley*

- △ Expands the list of outstanding offenses that result in denial of driver's license renewal to include the failure to appear for a complaint, citation, or court order to pay a fine involving a traffic offense.

**County Jail Work Release Program - S.B. 1610**

*by Senator Whittire  
House Sponsor: Representative Allen*

- △ Provides for the participation of eligible inmates of the TDCJ in the county jail work release program (program).
- △ Provides that an inmate is eligible for transfer if the inmate is confined in a facility operated by or under contract with TDCJ and has achieved or is within one year of achieving the inmate's presumptive parole date or mandatory supervision release date.
- △ Allows the sheriff of each county to attempt to secure employment for each defendant transferred to the county jail work release program from TDCJ.
  - △ Requires the sheriff to deposit the defendant's salary into a special fund to be given to the defendant on his release after deducting certain costs, including the cost of medical treatment incurred while confined in the jail.

- Δ Authorizes the sheriff to return the defendant to the custody of TDCJ if the sheriff determines that the defendant while in the program is conducting himself in a manner that is dangerous to inmates in the county jail or to society as a whole.

**Crime Stoppers Advisory Council - S.B. 1676**

*by Senator Boonin*

*House Sponsor: Representative Stiles*

- Δ Increases the membership of the Crime Stoppers Advisory Council (council) from five members appointed by the governor to seven.
- Δ Provides that members of the council serve staggered terms of four years, rather than the current two years, with the terms of the members expiring on February 1 of each odd-numbered year.
- Δ Requires at least four, rather than three, members to be persons who have participated in a local crime stoppers program.

**Denial of Community Supervision - S.B. 1827**

*by Senator Shapleigh*

*House Sponsor: Representative Moreno*

- Δ Prohibits a judge from denying a defendant community supervision based on the defendant's inability to speak, read, write, or understand English.

**Enticement of Child With the Intent to Kidnap - S.B. 1835**

*by Senator Shapiro*

*House Sponsor: Representative McClendon*

- Δ Amends the kidnapping and false imprisonment law to make restraint of a child under the age of 14 by force, intimidation, or deception a Class A misdemeanor.

**Prohibited Contact with Victim - H.B. 156**

*by Representative Driver, et al.*

*Senate Sponsor: Senator Shapiro*

- Δ Requires a parole panel which releases a defendant on parole or to mandatory supervision to require as a condition of release that the defendant not intentionally or knowingly communicate with a victim of the offense or go near a residence, school, place of employment, business, or other location frequented by the victim.

- Δ Requires the pardons and paroles division (division) of the TDCJ to facilitate victim-offender mediation when such mediation is requested.
- Δ Requires TDCJ to adopt policies that prohibit an inmate from contacting a victim of the offense for which the inmate is serving a sentence if the victim was younger than 17 years of age at the time of the commission of the offense and TDCJ has not received written consent to the contact from a parent or legal guardian of the victim, or the victim, if the victim is 17 years of age or older at the time of giving the consent.
  - Δ Requires TDCJ to forfeit all or any part of an inmate's accrued good conduct time if the inmate violates a policy prohibiting contact with the victim.

## **Carrying Weapons Unlawfully - H.B. 311**

*by Representative Place*

*Senate Sponsor: Senator Patterson*

- Δ Broadens the meaning of the offense of unlawfully carrying a weapon to include a person who intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon on certain premises.
- Δ Provides exceptions to the offense of unlawful carrying a weapon, rather than making the same circumstances affirmative defenses to prosecution.

## **Testing of Inmates for Controlled Substances - H.B. 438**

*by Representative Alvarado, et al.*

*Senate Sponsor: Senator Whitmire*

- Δ Requires the TDCJ, after consultation with the Criminal Justice Policy Council, to implement a program to randomly test the breath, blood, or other bodily substances of inmates for the presence of controlled substances.
  - Δ Requires TDCJ to annually test not less than 5 percent of the inmates housed in facilities operated by or under TDCJ.
  - Δ Requires TDCJ to use the most cost-effective means possible to perform the tests, and to seek grants from the federal government or other sources to expand the program.
- Δ Allows TDCJ to defer or dismiss punitive actions against an inmate determined to have taken controlled substances if the inmate identifies the individual who delivered the controlled substance to the inmate.

**Retaliation Against Peace Officers and Other Public  
Servants - H.B. 806**

*by Representative Greenberg, et al.*

*Senate Sponsor: Senator Wentworth*

- Δ Creates an offense for intentionally retaliating or threatening harm against someone because the person is a peace officer or other public servant, whether on duty or not.

**Dual Supervision Study - H.B. 818**

*by Representatives Cuellar and Dukes*

*Senate Sponsor: Senator Patterson*

- Δ Provides for the study of the incidence of dual supervision of certain persons by the pardons and paroles division of the TDCJ and community supervision and corrections departments of local governments.
- Δ Requires the reporting of certain arrests to prevent dual supervision.

**TDCJ Recidivism Programs - H.B. 819**

*by Representative Cuellar, et al.*

*Senate Sponsor: Senator Ellis*

- Δ Provides regulations aimed at reducing the recidivism rate for individuals under the supervision of the TDCJ. Requires:
  - Δ TDCJ to conduct periodic performance reviews of recidivism programs;
  - Δ the prison industries advisory committee to make recommendations to the TDCJ board on the effective use of prison industries programs to assist inmates in the development of job skills; and
  - Δ TDCJ and the Texas Workforce Commission to adopt a memorandum of understanding that establishes their respective responsibilities for providing inmates who are released into the community on parole or other conditional release with a network of centers designed to provide education, employment, and other support services.

**Access to Driver's License Record Information - H.B. 972**

*by Representative Jesse Jones*  
*Senate Sponsor: Senator Whitmire*

- △ Sets forth provisions regarding systems for providing access to driver's license record information held by the Texas Department of Public Safety that can be used by car rental companies or prospective employers of individuals employed or seeking employment as operators of motor vehicles to ascertain an individual's driving record.

**Use of Fraudulent Government Information - H.B. 1048**

*by Representative Gutierrez, et al.*  
*Senate Sponsor: Senator Armbrister, et al.*

- △ Sets forth provisions regarding fictitious inspection certificates, motor vehicle license plates, registration insignia, or safety inspection certificates.
- △ Makes an offense involving a fictitious inspection certificate a Class B misdemeanor.
- △ Sets forth provisions regarding the automatic suspension of a driver's license on conviction of certain offenses involving fictitious motor vehicle license plates, registration insignia, or safety inspection certificates.
- △ Sets forth provisions regarding the automatic revocation of a driver's license for offenses involving fraudulent governmental records including a motor vehicle license plate or registration insignia, or a safety inspection certificate.

**Psychological Counseling for Stalkers - H.B. 1050**

*by Representative Gutierrez, et al.*  
*Senate Sponsor: Senator Moncrief*

- △ Requires an inmate convicted of stalking to attend psychological counseling sessions as a condition of parole or mandatory supervision.

**Controlled Substances Regulations - H.B. 1070**

*by Representatives Van de Putte and Wise*  
*Senate Sponsor: Senator Madla*

- △ Establishes drug regulation and enforcement under the Texas Controlled Substances Act (Act) and the authority of certain state agencies under that Act, and imposes penalties for violations.

- Δ Updates and streamlines the regulations contained in the Act to delete LSD from Penalty Group I and add it to the newly created Penalty Group 1-A.
- Δ Criminalizes the possession, manufacture, and delivery of LSD in terms of very small "abuse units," rather than in terms of grams.
- Δ Removes the complex list of drug schedules and codifies the authority of the commissioner of health to establish and modify the schedules.
- Δ Grants the Texas Department of Public Safety the power to cancel, suspend, revoke, probate, or accept voluntary surrender of a controlled substances registration.

## **Arrest and Housing of Parole Violators - H.B. 1112**

*by Representative Hawley, et al.*  
*Senate Sponsor: Senator Duncan, et al.*

- Δ Provides new regulations regarding certain hearings concerning the revocation of the release status of persons under the supervision of the pardons and parole division of the TDCJ and the housing of those persons pending the hearings.
  - Δ Allows TDCJ to authorize a county facility, that is otherwise required to detain and house a prisoner awaiting a hearing for a parole violation, to transfer the prisoner to a TDCJ facility.
  - Δ Establishes time frames for detention and hearings for parolees charged with violating their parole.

## **Notification of Schools about Crimes Committed by Students - H.B. 1150**

*by Representative Greenberg, et al.*  
*Senate Sponsor: Senator Shapiro*

- Δ Provides regulations regarding the notification of school officials by law enforcement agencies of the arrest or detention of students who have committed dangerous and threatening crimes.

**Criminal Justice Policy Council/Sunset - H.B. 1155**

*by Representative Hightower  
Senate Sponsor: Senator Brown*

- Δ Provides for the continuation and functions of the Criminal Justice Policy Council for 12 years.
- Δ Abolishes the council's oversight board.
- Δ Increases accountability by requiring the executive director, in setting the council's priorities, to consult with the governor, lieutenant governor, speaker of the house of representatives, and the presiding officers of each standing committee of the senate and house having primary jurisdiction over criminal justice issues as well as the presiding officers of committees dealing with state finance and appropriations.

**Access to Information Maintained by the Department of Public Safety - H.B. 1176**

*by Representative Allen, et al.  
Senate Sponsor: Senator Brown*

- Δ Authorizes the Department of Public Safety (DPS) to charge a person that is not primarily a criminal justice agency a fee for processing inquiries for criminal history record information and other related information described as public information.
- Δ Authorizes any person who obtains information from DPS to use the information for any purpose or release the information to any other person.
- Δ Specifies a date for DPS to have implemented a system to respond to inquiries for this information.

**Fraudulent Exercise of Government Functions - H.B. 1185**

*by Representative Hightower, et al.  
Senate Sponsor: Senator Armbrister*

- Δ Makes it a state jail felony to cause or induce, by deception, a public servant to file any document of a court, judicial entity, or judicial officer not established under either Texas or federal law, with the intent to defraud or harm a person.

- △ Provides that it is an offense for a person to recklessly cause to be delivered to another any document that simulates a summons, complaint, or other court process with the intent to induce payment of a claim; or cause another to submit to the putative authority of the document or take any action or refrain from any action on the basis of that document. These offenses are Class A misdemeanors, unless the defendant has been previously convicted of such offense, in which event the offenses are state jail felonies.
- △ Makes it a Class A misdemeanor for a person, with the intent to defraud or harm another, to:
  - △ own, hold, or be the beneficiary of a fraudulent lien or claim against real or personal property; and
  - △ refuse to execute a release within a set period after receiving a request of the obligator, debtor, or any person owning an interest in that property.
- △ Provides that a person commits an offense if the person knowingly purports to exercise any function of a public servant or public office when the position or office has no lawful existence under Texas or federal law.
- △ Provides that it is a Class A misdemeanor (or a third degree felony if the offender had been previously convicted two or more times of this offense) for a person to make, present, or use any document or record with:
  - △ knowledge that the document or record is not from a court created under federal or Texas law; and
  - △ the intent is that the document or record be given the same legal effect as a record of a court created under Texas or federal law.
- △ Provides that it is an offense for a person to knowingly present, file, or cause to be presented or filed a financing statement that the person knows:
  - △ is forged (a third degree felony, or, if the offender has been previously convicted of this offense, a second degree felony);
  - △ contains a material false statement (a Class A misdemeanor, or, if the person intended to defraud or harm another, a state jail felony); or
  - △ is groundless (a Class A misdemeanor, or, if the person intended to defraud or harm another, a state jail felony).

- △ Requires a defendant or an attorney representing the defendant to sign pleadings or any other papers filed on the defendant's behalf. Provides that such signature constitutes certification that the person has read the pleading or paper and, to the best of that person's knowledge, information, and belief formed after reasonable inquiry, the paper is not groundless and brought in bad faith or groundless and brought for harassment, unnecessary delay, or other improper purpose. This does not include pleas of "not guilty," "no contest," or "nolo contendere." Sets out sanctions.
- △ Requires a clerk of the supreme court, court of criminal appeals, or a court of appeals, or a district clerk, county clerk, or municipal clerk to give written notice of any document that the clerk has reason to believe is fraudulent. Defines what is presumed to be a fraudulent document and sets out the requirements for such notices.
- △ Requires that the court's conclusion of law and finding of fact be filed in the same class of records as the original document. Authorizes a certified copy of the finding of fact and conclusion of law to be filed with the secretary of state if the purported lien or other claim is one that is authorized by law to be filed with the secretary of state.
- △ Requires clerks to post a warning sign visible to the public stating that it is a crime to intentionally or knowingly file a fraudulent court record or instrument.
- △ Prohibits a person from making, using, or presenting a document or other record with the knowledge that the document or record is a fraudulent court record or fraudulent lien or claim against real or personal property; the intent that the document or record be given the same legal effect as that of a court established under state or federal law; and the intent to cause another to suffer physical or financial injury or mental anguish or emotional distress.
  - △ Provides that a person who commits such an act is liable to each injured person for court costs, reasonable attorney's fees, exemplary damages, and the greater of actual damages or \$10,000.
- △ Provides that a purported judgment lien not issued by a court established under Texas or federal law is void and has no effect in the determination of any title or right to property,
- △ Requires the court to award a prevailing plaintiff the costs of bringing action if the court finds that the defendant, at the time the document was recorded or filed, knew or should have known that the document was fraudulent.

- △ Requires county and district clerks to complete one hour of continuing education regarding fraudulent documents and filings.

### **Private Sector Prison Industries Oversight - H.B. 1301**

*by Representatives Allen and Culberson*

*Senate Sponsor: Senator Whitmire*

- △ Creates the Private Sector Prison Industries Oversight Authority (authority) to approve, certify, and oversee the operation of the private sector prison industries program (program). Sets forth the composition of the authority.
- △ Requires the authority to adopt rules to ensure that the program is in compliance with the federal prison enhancement certification program.
- △ Requires the authority to require inmate employees at each program to be paid at least the prevailing wage, except that the employee may be paid minimum wage for the two-month period beginning on the date employment begins.
  - △ Requires an inmate to contribute a percentage of the wages received by the inmate under the program to be deposited in the private sector prison industries oversight account.
- △ Prohibits the authority from granting initial certification to a program if the authority determines that the operation of the program would result in the loss of existing jobs provided by the employer in this state.
- △ Requires the authority to require program employers to meet or exceed all federal requirements for providing compensation to inmates injured while working.
- △ Requires the authority, with the cooperation of the Criminal Justice Policy Council, to gather data regarding the recidivism rate among inmates who participated in the program.
- △ Authorizes the authority to certify any number of programs that meet or exceed certain standards but prohibits the authority from permitting more than 1,500 inmates to participate in the program at any one time.

**Punishment for Criminal Mischief - H.B. 1370**

*by Representative Garcia, et al.*  
*Senate Sponsor: Senator Shapiro*

- Δ Makes criminal mischief:
  - Δ a Class C misdemeanor if the amount of pecuniary loss is less than \$50, rather than \$20;
  - Δ a Class B misdemeanor if the loss is more than \$50 but less than \$50; and
  - Δ a state jail felony if the damage is less than \$1,500 and the damage is to a habitat or caused by a firearm or explosive.

**Board of Pardons and Paroles/Sunset - H.B. 1386**

*by Representative Gray*  
*Senate Sponsor: Senator Brown*

- Δ Provides for the continuation of review of the Board of Pardons and Paroles (board) under the Sunset Act and makes statutory modifications recommended by the Sunset Advisory Commission including:
  - Δ providing for another study of the board in two years in conjunction with the Sunset review of the TDCJ.

**Use of Polygraph Tests for Prison Employees - H.B. 1422**

*by Representative Hightower, et al.*  
*Senate Sponsor: Senator Whitmire*

- Δ Prohibits the TDCJ from suspending, discharging, or subjecting an employee to employment discrimination based on the employee's refusal to submit to a polygraph examination during the investigation of a complaint of misconduct.

**Tobacco Use by TDCJ Employees - H.B. 1427**

*by Representative Hightower*  
*Senate Sponsor: Senator Whitmire*

- Δ Allows the TDCJ to provide areas where tobacco products can be used by TDCJ employees on properties under TDCJ jurisdiction.

**Arrest and Detention of Defendants with Mental Impairments - H.B. 1747**

*by Representative Place*

*Senate Sponsor: Senator Moncrief*

- △ Amends several statutory provisions relating to the arrest and detention of defendants with mental impairments as well as provisions relating to continuity of care for offenders with special needs.
  - △ Requires a sheriff, no later than 72 hours after receiving evidence that a defendant in the sheriff's custody has a mental illness or mental retardation, to notify the magistrate of that fact.
  - △ Requires the magistrate to order an examination of the defendant by a disinterested mental health care expert and to release the defendant on personal bond if the defendant is determined to be mentally ill or retarded and not competent to stand trial.
  - △ Requires the judge, under certain circumstances, to require the defendant as a condition of community supervision to submit to outpatient or inpatient mental health treatment if the defendant's mental impairment is chronic in nature, or the ability to function independently will continue to deteriorate if the defendant does not receive mental health care.
  - △ Requires the Texas Council on Offenders with Mental Impairments in cooperation with the Commission on Jail Standards, the Department of Mental Health and Mental Retardation, and TDCJ to conduct a study to determine the manner in which medical and psychological assessments are conducted in county jails.

**Texas Correctional Industries - H.B. 2324**

*by Representative Allen*

*Senate Sponsor: Senator Wentworth*

- △ Provides for the organization and operation of certain prison industries in the TDCJ, the Texas Youth Commission, and certain county correctional facilities; establishes the organization and operation of TDCJ agricultural and work programs; and provides penalties.
- △ Authorizes the Texas Board of Criminal Justice (board) to establish a prison industries advisory committee (committee).
- △ Requires TDCJ to use inmate labor in the prison industries to the greatest extent feasible.

- △ Authorizes the board, by rule, to administer an incentive pay scale for inmates who participate in prison industries, and authorizes TDCJ to administer the pay scale.
- △ Authorizes the legislature to appropriate money to an industrial revolving account (account) in the general revenue fund.
- △ Provides that a person commits a Class B misdemeanor if the person intentionally sells or offers to sell on the open market in this state an article or product the person knows was manufactured by an inmate of TDCJ or an inmate in any correctional facility or reformatory institution in this state or in any other state, with certain exceptions.
- △ Authorizes TDCJ to contract with another state, federal government, a foreign government, or an agency of any of those governments to manufacture for or sell to those governments prison-made articles or products; or to contract with a private school or a visually handicapped person in this state to manufacture Braille textbooks or other instructional aids for the education of visually handicapped persons.
- △ Authorizes TDCJ to contract with nonprofit organizations that provide services to the general public and enhance social welfare and the general well-being of the community to provide inmate labor to those organizations.

### **Prevention and Investigation of Horse Theft - H.B. 2396**

*by Representative Finnell, et al.*

*Senate Sponsor: Senator Patterson*

- △ Creates training programs to promote the prevention of horse theft for horse owners and law enforcement agencies that investigate horse thefts.
- △ Requires the Texas Agricultural Extension Service to develop an ongoing training program for horse owners to promote the prevention of horse theft.
- △ Requires a state, county, or local law enforcement agency with the responsibility to investigate horse thefts to provide certain training for its employees likely to handle horse theft cases.
- △ Requires a person who owns a horse to record an identification mark with the county clerk of the county in which the animal is located.
- △ Requires a slaughterer to pay \$2 to the Agricultural Extension Services, and \$3 to the federally designated agency that inspects livestock in Texas for each horse purchased for slaughter.

**Unidentified Deceased Persons - H.B. 2693**

*by Representative Serna*  
*Senate Sponsor: Senator Shapleigh*

- △ Establishes procedures for law enforcement agencies and medical examiners to follow in the cases of unidentified deceased persons.
- △ Requires the justice of the peace investigating a death to conduct an inquest into the death of a person who dies in the county served by the justice if the body of a person is found, the cause or circumstances of death are unknown, and the body is identified or unidentified.
- △ Requires the justice of the peace to report the death to the missing children and missing persons information clearinghouse of the Department of Public Safety and the National Crime Information Center no later than the 10th working day after the date the investigation began.
- △ Directs that, if the body of a deceased person is unidentified, a person may not cremate or direct the cremation of the body. If the body is buried, the justice of the peace shall record and maintain for not less than 10 years all information pertaining to the body and the location of the burial.
- △ Requires a medical examination of an unidentified person to include thorough information to enable a timely and accurate identification of the person. This information may include full body X-rays and hair specimens with roots to enable a timely and accurate identification of the person.
- △ Enables the aid of a forensic anthropologist to be requested by the medical examiner to aid in the examination of the body.
- △ Dictates that a person commits a Class B misdemeanor if the person knowingly violates these requirements.

**Inmate and Probationer Labor - H.B. 2825**

*by Representative Place, et al.*  
*Senate Sponsor: Senator Patterson*

- △ Authorizes the Texas Transportation Commission to contract with a community supervision and corrections department or a sheriff's department operating a county farm or workhouse or a county correctional center program for the provision of inmate or probationer labor for a state highway system improvement project.

**TDCJ Inmate Deaths - H.B. 2827**

*by Representative Place*

*Senate Sponsor: Senator Duncan*

- △ Requires the TDCJ to report inmate deaths, other than deaths attributable to natural causes or deaths due to legal execution, to the Attorney General's Office.
- △ Requires TDCJ or an authorized TDCJ official to order autopsies for inmates who die of natural causes if the inmate's next of kin consents to the autopsy or does not object within a certain period, and defines an "inmate in the custody of TDCJ" as a convicted felon who is confined in a TDCJ secure correctional facility or who has been hospitalized while in TDCJ custody.
- △ Sets forth the procedure by which an inmate can become an eye, tissue, or organ donor if the inmate dies while in the custody of TDCJ.

**"Gang Books" - H.B. 2874**

*by Representative Goodman, et al.*

*Senate Sponsor: Senator Whitmire*

- △ Allows local criminal justice agencies to send information regarding gang activity to a regional database.
- △ Suspends, until September 1, 1999, the provision that requires criminal gang information relating to a child who has not been charged with criminal activity to be destroyed after two years.

**Eligibility to Carry a Concealed Handgun - H.B. 2909**

*by Representative Carter, et al.*

*Senate Sponsor: Senator Patterson*

- △ Sets forth provisions regarding persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.
- △ Allows handgun licensees from other states to carry their concealed weapons in Texas.

**Treatment Alternative to Incarceration Program - H.B. 3244**

*by Representative Gray*  
*Senate Sponsor: Senator Whitmire*

- Δ Allows the TDCJ to establish a treatment alternative to incarceration program in each county served by TDCJ according to standards adopted by the institutional division of TDCJ.
  - Δ Allows TDCJ to enter into an interlocal cooperation agreement with one or more other departments in order to establish a program on a regional basis.
- Δ Sets forth the persons to which an employee of TDCJ or a treatment provider administering a program or providing services is authorized to disclose information regarding the treatment of a person participating in a program.
- Δ Requires a procedure for determining which inmates are the best candidates for participation in the program to be adopted.
  - Δ Allows the institutional division of TDCJ to require the selected inmates to attend the substance abuse treatment program.

**The Texas National Guard as a Law Enforcement Agency -  
H.B. 3278**

*by Representative Counts*  
*Senate Sponsor: Senator Patterson*

- Δ Provides that when the Texas National Guard assists a federal law enforcement agency in enforcing drug laws, the guard is considered to be a law enforcement agency for the purpose of participation in the sharing of property seized or forfeited to the United States under federal law.

**National Guard Assistance Counter-Drug Activities  
Compact - H.B. 3380**

*by Representative Counts*  
*Senate Sponsor: Senator Lucio*

- Δ Allows the Texas National Guard to enter into a mutual assistance and support agreement with a law enforcement agency operating in this state for activities within this state, or with a national guard of other states in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counter-drug activities, and demand reduction.

## Two Strikes Law for Sex Offenders - S.B. 46

*by Senator Shapiro*

*House Sponsors: Representatives Wolens and Greenberg*

- △ Automatically sentences a person to life imprisonment if that person has been convicted of certain sex offenses two times. Under this sentence, the felon will serve at least 35 years in prison after which time there is an option for parole, if two-thirds of the parole board agrees.
  - △ Requires the second felony conviction to be an aggravated sexual assault, sexual assault, aggravated kidnapping with the intent to commit a sex offense, or burglary with the intent to commit a sex offense.
  - △ Requires the previous felony conviction to have been one of the four crimes mentioned above, various offenses involving sexual performance by a child, possession or promotion of child pornography, indecency with a child, or incest.

## Voluntary Castration for Sex Offenders - S.B. 123

*by Senator Bivins*

*House Sponsor: Representative Gallego*

- △ Allows a doctor employed or retained by the Texas Department of Criminal Justice (TDCJ) to perform an orchiectomy (surgical castration) on repeat child molesters if certain conditions are met, including, but not limited to:
  - △ the inmate is 21 years or older;
  - △ the inmate requests the orchiectomy in writing;
  - △ the inmate signs an admission of guilt of the crimes for which the inmate was convicted; and
  - △ a psychiatrist or psychologist who is experienced in the treatment of sex offenders and is appointed by TDCJ determines the inmate is a suitable candidate for the procedure and counsels the inmate before the procedure.
- △ Provides that a doctor who performs an orchiectomy is not liable for an act or omission relating to the procedure, unless the act or omission constitutes negligence.

- Δ Allows the inmate to change his decision to undergo the orchiectomy at any time before the performance of the procedure. An inmate who changes his decision becomes ineligible for the orchiectomy treatment option in the future.
- Δ Requires the executive director of the Texas State Board of Medical Examiners to appoint a monitor to assist an inmate in his decision to have an orchiectomy.
  - Δ Provides that the monitor is not liable for damages arising from an act or omission, unless the act or omission was intentional or grossly negligent.
- Δ Requires TDCJ to conduct a ten-year recidivism rate study on those who undergo an orchiectomy, and compare the results to the recidivism of child molesters who have not undergone an orchiectomy.
- Δ Prohibits a judge or a parole panel from requiring an inmate to undergo an orchiectomy as a condition of community supervision, parole, or mandatory supervision.

## **Prosecution of Certain Sexual Assaults Committed Against Children - S.B. 185**

*by Senator Shapiro*

*House Sponsor: Representative Dunnam, et al.*

- Δ Expands offenses under the sexual assault and aggravated sexual assault sections of the Penal Code to include an offense if the person causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

## **Grant of Deferred Adjudication and Prosecution for Certain Sexual Offenders - S.B. 381**

*by Senator Shapiro*

*House Sponsor: Representative Goodman, et al.*

- Δ Provides that a judge may not place a defendant charged with indecency with a child, sexual assault, or aggravated sexual assault on community supervision, unless the judge finds that community supervision is in the best interest of the victim. Failure to make such a finding is not grounds for the defendant to set aside the plea, deferred adjudication, or any subsequent conviction or sentence.

- △ Provides that a judge may not grant deferred adjudication to a defendant who is charged with indecency with a child, sexual assault, aggravated sexual assault, or other felonies enumerated in this section, and has previously been placed under community supervision for any such offense.
  
- △ Provides that for more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence was for a conviction of an offense concerning indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, or sexual performance by a child:
  - △ in which the victim was younger than 17 years of age, regardless of whether the accused is convicted of more than one violation of the same offense or violations of more than one offense; or
  - △ for which a plea agreement was reached in a case in which the accused was charged with more than one such offense committed against a victim younger than 17 years of age, regardless of whether the accused is convicted of more than one violation of the same offense or violations of more than one offense.
  
- △ Provides that the defendant does not have the right to severance of offenses joined for trial in a prosecution for offenses concerning indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, or sexual performance by a child, unless the court determines that either the defendant or the state would be unfairly prejudiced by the joinder of offenses.
  
- △ Provides that for the purposes of determining whether a repeat offender is subject to a life sentence under this section, a defendant shall be deemed to have been previously convicted of certain enumerated sexual offenses if:
  - △ the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for deferred adjudication, regardless of whether the sentence was ever imposed or was probated, or the defendant was subsequently discharged under community supervision; and
  - △ the defendant was convicted under another state's laws for an offense containing substantially the same elements as one of the enumerated offenses.

**Sexual Assault by Mental Health Providers - S.B. 542**

*by Senator Barrientos*

*House Sponsor: Representative Naishtat*

- △ Expands the list of those who, under certain conditions, are considered to have committed the crime of sexual assault against a patient to include a physician, a chiropractor, a licensed vocational nurse, a physical therapist, a physician's assistant, a registered nurse, and an advanced practice nurse.

**Child Pornography on the Internet - S.B. 674**

*by Senator Brown, et al.*

*House Sponsor: Representative Place*

- △ Expands the offense of possessing or promoting material depicting a child younger than 18 years of age engaged in sexual conduct to include visual material, rather than only film.

- △ Defines visual material as:

- △ any film, photograph, videotape, negative, or slide, or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or
- △ any disk, diskette, or other physical medium that allows an image to be displayed on a computer or video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

**Sex Offender Registration Program - S.B. 875**

*by Senator Shapiro, et al.*

*House Sponsor: Representative Danburg, et al.*

- △ Provides additional regulations regarding the applicability of the sex offender registration program to certain defendants, the procedures used to register and monitor sex offenders, and the imposition of criminal penalties.
- △ Includes juveniles placed on probation or persons placed on community supervision for certain sexual offenses as persons required to register in the sex offender registration program.

## *Forms, Notice, and Information*

- Δ Requires information regarding whether the sex offender registrant is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision to be included on the registration form.
  - Δ Requires the registration form to be reviewed for completeness and accuracy.
- Δ Requires the local law enforcement authority to give notice, not only to the superintendent of the public school district, but also to the administrator of any private school located in the district.
  - Δ Authorizes a private school or administrator of a private school to release to the public certain information regarding a person required to register, and releases the institution and the administrator from liability for damages arising from a legally sanctioned release of the information.

## *Duties of the Sex Offender Registrant and Law Enforcement*

- Δ Requires juvenile probation officers, probation officers, and parole officers to make a status report to the appropriate law enforcement authority, on the registrant, if the officers receive information that the registrant's status has changed in any manner that will affect the proper supervision of the registrant, including a change in the registrant's physical health, job status, incarceration, or terms of release.
  - Δ Requires the officers to notify the local law enforcement authority with whom the offender last registered of a change of address and the projected moving date of the registrant, even if the registrant is moving out of state.
  - Δ Requires a sex offender registrant who has on two or more occasions been convicted of or received an order of deferred adjudication for a sexually violent offense to report to the local law enforcement authority once every 90 days after first registering to verify the information on the registration form. Other persons must report for information verification once a year.
- Δ Requires a sex offender registrant, who has been convicted or adjudicated for a sexually violent offense, incest, compelling a minor to commit prostitution, or child pornography to register until he or she dies, unless exempted from this duty by the court.

- △ Requires all other sex offender registrants to register for 10 years.
- △ Provides that failure to comply with registration requirements on the part of a person required to register is a state jail felony.
- △ Limits application of this chapter to a reportable conviction or adjudication occurring on or after September 1, 1991, except that certain provisions relating to the requirement of newspaper publication apply only to a reportable conviction or adjudication occurring on or after September 1, 1995.

## **Eligibility for Release on Mandatory Supervision - H.B. 432**

*by Representative Place, et al.*  
*Senate Sponsor: Senator Whitmire*

- △ Adds inmates convicted of a third degree felony regarding indecency with a child to the list of offenses precluding early release on mandatory supervision.

## **Location of Released Sex Offenders - H.B. 658**

*by Representative Burnam, et al.*  
*Senate Sponsor: Senator Moncrief*

- △ Requires the pardons and parole division of the TDCJ to notify the sheriff of any county in which the number of sex offenders on parole or mandatory supervision in the county exceeds 10 percent of the total number of supervised or paroled sex offenders in the state.
- △ Allows the parole board to limit the number of paroled or supervised sex offenders in a county if the number of paroled or supervised sex offenders exceeds 22 percent of the total number of paroled or supervised sex offenders in the state, with certain exceptions.

**Statute of Limitations for Childhood Sex Abuse - H.B. 921**

*by Representative Danburg, et al.*

*Senate Sponsor: Senator Shapiro*

- Δ Increases the statute of limitations for bringing an indictment for sexual offenses committed against children so that felony indictments:
  - Δ for indecency with a child can be brought 10 years from the date of the commission of the offense; and
  - Δ for sexual assault or aggravated sexual assault can be brought 10 years from the 18th birthday of the victim.

**Sexual Relations Between Inmates and Staff - H.B. 2283**

*by Representative Farrar*

*Senate Sponsor: Senator Shapiro*

- Δ Makes it a state jail felony for an employee of a correctional facility or a peace officer to have sex with an individual in custody.

**Sex Offender Registration Program/Sunset - H.B. 2699**

*by Representative Gray, et al.*

*Senate Sponsor: Senator Brown*

- Δ Provides for the continuation of the Council on Sex Offender Treatment (council) for a 12-year period, and makes various technical statutory modifications recommended by the Sunset Advisory Commission.

**Extended Supervision Period for Sex Offenders - H.B. 2918**

*by Representative Place, et al.*

*Senate Sponsor: Senator Whitmire*

- Δ Allows a judge to extend the period of community supervision at any time if a defendant is placed on community supervision after receiving a grant of deferred adjudication for or being convicted of indecency with a child, sexual assault, or aggravated sexual assault.

- Δ Allows a judge to extend the period of supervision for not more than 10 additional years if the judge determines at a hearing that the defendant has not sufficiently demonstrated a commitment to avoid future criminal behavior and that the release of the defendant would endanger the public.
- Δ Requires the TDCJ to establish a program to provide super-intensive supervision to inmates requiring the highest level of supervision.
- Δ Allows TDCJ to use a separate classification system, based on the classes used in determining accrual of good conduct time, that requires inmates who need treatment to diligently participate in treatment, and that makes the award of good conduct time dependent on that diligent participation.

## Defense Economic Readjustment Zones - S.B. 226

*by Senator Madla, et al.*

*House Sponsor: Representative Delwin Jones*

- △ Sets forth the procedure for designation of an area as a defense economic readjustment zone.
  - △ Requires an area to have certain physical properties in order to be designated as a readjustment zone.
  - △ Provides that an area is not prohibited from being included in a readjustment zone because the area is also included in an enterprise zone.
  - △ Provides that a municipality or county is an adversely affected defense-dependent community if the Texas Department of Commerce determines that the municipality or county requires assistance under certain conditions, or is expected to experience a direct loss of a certain percentage of defense worker or civilian jobs.

## Defense-Dependent Community Loans - S.B. 227

*by Senator Madla, et al.*

*House Sponsor: Representative Delwin Jones*

- △ Provides assistance to local areas adversely affected by a reduction in defense-related activity.
  - △ Authorizes the Texas Department of Commerce to make a grant to an eligible local government entity to allow the entity to meet a matching money or investment requirement in order to receive assistance from the federal government.
- △ Requires the department to establish a defense economic adjustment assistance panel within the department.

## Trademarks - S.B. 228

*by Senator Armbrister*

*House Sponsor: Representative Hightower*

- △ Sets forth criminal sanctions, including the forfeiture of property, for the counterfeiting of trademarks, service marks, and identification marks in the manufacture and sale of goods and services.

## Relating to Construction Contracts and Accounts - S.B. 241

*by Senator West, et al.*

*House Sponsor: Representative Giddings*

- △ Provides that a reasonable fee specified in a written construction contract payable to the contractor is not considered a trust fund.
- △ Requires a contractor entering into a written contract in an amount exceeding \$5,000 for improvements to a residential homestead to deposit trust funds received in connection with the improvements in a construction account in a financial institution. A reasonable fee payable to the contractor under the contract is not considered trust funds.
- △ Sets out the requirements for the management of the account, including the maintenance of records showing the source, amount, and date of all funds deposited or disbursed from the account. Information required to be maintained cannot be destroyed before the first anniversary of the date the improvement was completed.
- △ Makes it a Class A misdemeanor to fail to establish, maintain, or properly manage a construction account.

## Loan Administrative Fees - S.B. 251

*by Senator Carona*

*House Sponsor: Representative Thompson*

- △ Allows an administrative fee of \$10 for a loan of \$1,000 or less or \$25 for a loan of more than \$1,000 when the loan is made, and \$10 for a loan of \$1,000 or less or \$25 for a loan of more than \$1,000 if the loan is refinanced.
- △ Provides that such a fee at the time of refinancing cannot be charged or received by the lender more than once every 180 days.

## Linked Deposit Program for Child Care - S.B. 265

*by Senator Ellis, et al.*

*House Sponsor: Representative Giddings*

- △ Provides a linked deposit program, which encourages commercial lenders to lend for the purpose of providing quality, affordable child care.

## **Small Businesses - S.B. 266**

*by Senator Ellis, et al.*

*House Sponsor: Representative Oliveira, et al.*

- Δ Establishes a Capital Access Program in the Texas Department of Commerce to secure certain loans made to small and medium-sized businesses and nonprofit organizations.
- Δ Provides for a transfer of money from the Exporter Loan and the Rural Economic Development Loan funds to the Capital Access Fund.

## **Certificates of Deposit - S.B. 652**

*by Senator Carona*

*House Sponsor: Representative Marchant*

- Δ Allows nonnegotiable certificates of deposit to be used as collateral without certain filing requirements.
- Δ Amends the definition of “instrument” to include a nonnegotiable certificate of deposit, which can be perfected by possession for purposes of secured transactions.
- Δ Provides for how a party establishes possession of a nonnegotiable certificate of deposit in which the secured party is the issuer of the document.

## **Electronic Procurement - S.B. 820**

*by Senator West, et al.*

*House Sponsor: Representative Sylvester Turner*

- Δ Requires the General Services Commission to establish and manage an electronic procurement database, and an electronic procurement marketplace for state government business.

## **Commerce Department Reorganization - S.B. 932**

*by Senator Sibley*

*House Sponsor: Representative Oliveira, et al.*

- Δ Abolishes the Department of Commerce and creates the Texas Department of Economic Development.
  - Δ Replaces the policy board with a governing board that has the authority to hire an executive director.

- △ Provides for the privatization of certain economic development programs and services.
- △ Requires the agency to upgrade its current business information and referral program.

## **Creation of a Trade Task Force - S.B. 1041**

*by Senator Orphan*

*House Sponsor: Representative Hunter, et al.*

- △ Provides for the creation, powers, and duties of an International Trade Task Force within the Texas Department of Commerce and the promotion and development of international trade. Powers and duties of the task force include:
  - △ advising and assisting the department in promoting and developing international trade; and
  - △ developing a strategic plan that includes state goals for export of goods and services, attraction of foreign investment, and increased foreign representation.

## **Stock Insurance Companies - S.B. 1447**

*by Senator Harris*

*House Sponsor: Representative Brimer*

- △ Sets forth regulations and guidelines for the conversion of a mutual insurance company to a stock insurance company.
- △ Provides safeguards for policyholders of the mutual insurance company.

## **Texas Affordable Housing Task Force - S.B. 1852**

*by Senator Armbrister*

*House Sponsor: Representative Hill*

- △ Creates the Texas Affordable Housing Task Force to identify state and local regulations and policies that unnecessarily increase the cost of constructing or rehabilitating affordable housing.

## Multi-Bank Development Corporations - S.B. 1877

*by Senator Wentworth, et al.*

*House Sponsor: Representative Greenberg, et al.*

- △ Creates the Texas Community Investment Program to create multi-bank community development corporations to invest in or loan funds to businesses that employ low- and moderate-income persons and are located in distressed areas.

## Investments in South Africa and Namibia - S.J.R. 39

*by Senator Ellis*

*House Sponsor: Representative Giddings*

- △ Repeals the current constitutional amendment requiring disclosure by companies that invest in South Africa or Namibia, since these countries no longer operate under a system of apartheid. **Ballot Date: November 4, 1997.**

## Financing of Sports and Community Venues - H.B. 92

*by Representative Brimer, et al.*

*Senate Sponsor: Senator Whitmire*

- △ Sets forth provisions regarding the financing of sports and community venues and related infrastructure, and authorizes the imposition of certain local taxes and the issuance of local bonds.
  - △ Provides municipalities limited authority to use the following taxes for venue projects, with voter approval: a 5 percent car rental tax; a 2 percent hotel room tax; a 10 percent event-ticket tax; and a \$3 event-parking tax.
  - △ Allows municipalities with mass transit to shift a half-cent of that sales tax to venue projects, but requires such cities to hold an election to opt out of regional transit.
  - △ Allows municipalities to charge professional athletes a facility usage fee.
  - △ Allows municipalities to create development corporations to build venue projects.
  - △ Establishes an "anti-portability" provision to discourage Texas cities from luring each other's sports teams until November 1, 1998.

## **Texas Manufacturing Institute - H.B. 1168**

*by Representative Greenberg  
Senate Sponsor: Senator Sibley*

- △ Establishes the Texas Manufacturing Institute, currently an advisory committee to the Texas Department of Commerce providing assistance to small manufacturers, as a nonprofit corporation.

## **Voter Authorization for Use of Certain Funds for Projects - H.B. 1525**

*by Representative Oliveira  
Senate Sponsor: Senator Sibley*

- △ Authorizes a city that creates or has created a development corporation for the purpose of developing a general aviation business service that is an integral part of an industrial park or developing port-related facilities to support waterborne commerce to submit to the voters a ballot proposition that authorizes the corporation to use certain sales and use taxes raised for a city-created civic development corporation.

## **Reinvestment Zone Registries - H.B. 1526**

*by Representative Oliveira  
Senate Sponsor: Senator Sibley*

- △ Transfers the maintenance of a central registry of reinvestment zones and of ad valorem tax abatement agreements from the Texas Department of Commerce to the Comptroller of Public Accounts.

## **Texas Enterprise Zone Program - H.B. 2001**

*by Representative Oliveira  
Senate Sponsor: Senator Sibley*

- △ Makes several technical changes to the Texas Enterprise Zone Program including:
  - △ making program benefits available for job retention;
  - △ modifying the criteria used to designate "enterprise zones" and "enterprise projects";
  - △ modifying the utility rate incentive; and
  - △ expanding the list of items eligible for sales tax refunds.

- Δ Authorizes the Texas Department of Commerce to designate 65 enterprise projects during each of the next two biennia.

## **Trademark Applications - H.B. 2569**

*by Representative Woolley*  
*Senate Sponsor: Senator Ratliff*

- Δ Revises the state trademark application process to bring it in line with provisions of the revised Model State Trademark Bill recommended by the International Trademark Association.
  - Δ Codifies trademark examination and review procedures established by administrative rules already adopted by the secretary of state.
  - Δ Deletes the requirement that an application for registration or renewal be verified by the applicant or registrant and would clarify the authority of the secretary of state to adopt administrative rules regarding trademark applications.

## **Merger of a Federal Bank Into a Domestic or Foreign Bank- H.B. 3077**

*by Representative Oliveira*  
*Senate Sponsor: Senator Sibley*

- Δ Provides that a federal savings bank or a federal savings association domiciled in Texas, which merges with or converts to a domestic or foreign savings bank or association, is entitled to retain its branches in Texas and to have all powers, duties, rights, and privileges held by a Texas savings bank.

## Transferable Curriculum and the Texas Academic Skills Program - S.B. 148

*by Senator Bivins, et al.*

*House Sponsors: Representatives Rangel and Kamel*

- △ Requires each institution of higher education to adopt a core curriculum of no less than 42 semester credit hours that is transferable among institutions of higher education. Requires each general academic institution to accept the transfer of a field of study curriculum and substitute those courses for the institution's lower division requirements for that degree program.
  - △ Requires the Texas Higher Education Coordinating Board (THECB) to recommend a 42-hour core curriculum and a field of study curriculum with the assistance of an advisory committee composed of representatives of higher education institutions.
  - △ Requires each higher education institution to adopt a core curriculum based upon the recommendations and rules of THECB. Requires the core curriculum to be no less than 42 semester credit hours and be consistent with the common course-numbering system.
  - △ Requires the student to receive academic credit for each course completed under the core curriculum and the field of study curriculum, whether the curriculum is fully or partially completed.
  - △ Requires the institutions of higher education to evaluate their core curriculum and field of study curricula.
  - △ Requires THECB to evaluate the transfer practices of the institutions of higher education.
  - △ Establishes provisions deciding transfer disputes involving higher education institutions and students.
  - △ Requires a student concurrently enrolled at more than one higher education institution to follow the core curriculum or field of study curriculum of the institution in which the student is classified as a degree-seeking student.
- △ Requires each undergraduate student who enters a public higher education institution to be tested for reading, writing, and mathematics skills prior to enrolling in any course work. Requires THECB to prescribe circumstances under which a student may enroll in course work.

## HIGHER EDUCATION

- △ Requires a student who is permitted to enroll without taking the test to take the test no later than the end of the semester of enrollment.
- △ Requires the institution to use the Texas Academic Skills Program (TASP) test as prescribed by THECB.
  - △ Authorizes THECB to prescribe an alternative test instrument for an institution to use to test a student. Requires each alternative test to be correlated with the TASP test.
- △ Requires a student, on completion of the developmental course work or program, to retake that portion of the TASP test for which developmental education was required.
- △ Prohibits a student from enrolling in any upper division course, completion of which would give the student more than 60 or more semester credit hours, until the student's TASP test results meet or exceed the minimum standards in each skill area for which developmental education was required or the student has earned a grade of "B" or better in a freshman-level credit course in the subject matter of the assessed deficit. Requires THECB, for that purpose, to establish a list of freshman-level credit courses for each skill area of the test instrument.
- △ Prohibits a general academic teaching institution from receiving funding for developmental course work taken by a student in excess of 18 semester credit hours in each skill area. Prohibits a public junior college or public technical institute from receiving funding for developmental course work taken by a student in excess of 27 semester credit hours in each skill area.
  - △ Requires THECB to develop a performance funding formula by which institutions may receive additional funding for each additional student who successfully completes the developmental courses.
- △ Requires THECB to annually publish a summary of the report showing appropriate student test scores, a description of developmental courses required, and student grade point average. Sets forth requirements of the report.
- △ Requires THECB to publish annually a report summarizing developmental education by higher education institution for each academic year.
- △ Sets forth circumstances under which a student is considered exempt from the TASP requirements.

- △ Requires a student who has passed the required exit-level assessment to be encouraged to take the TASP test while enrolled in high school unless the student is exempted from TASP requirements.
  - △ Requires taking the TASP test under this condition to be voluntary.
  - △ Sets forth requirements for high school students taking the TASP test.

### **Post-Tenure Evaluation - S.B. 149**

*by Senator Bivins*

*House Sponsor: Representative Cuellar*

- △ Requires each governing board of an institution of higher education, after receiving advice from the faculty, to adopt rules and procedures for a periodic performance evaluation process for all faculty tenured at the institution.
- △ Sets forth requirements for the rules adopted by the governing board, including, among other provisions, requiring:
  - △ each tenured faculty member to be evaluated at least once every six years, but no more than once a year;
  - △ the evaluation to be based on professional responsibilities of the faculty member; and
  - △ the evaluation to be used for professional development, while also allowing that faculty member to be subject to revocation of tenure or other disciplinary measures.
- △ Requires a faculty member subject to termination due to an evaluation to be given the opportunity for referral of the matter to a nonbinding alternative dispute resolution process. Authorizes another type of alternative dispute resolution if both parties agree.
- △ Requires the governing board to give specific reasons, in writing, for any decision to terminate a faculty member on the basis of an evaluation.
- △ Prohibits a governing board from waiving the evaluation process for any faculty member granted tenure at an institution.
- △ Prohibits a governing board from awarding tenure to an administrator in any way that varies from the institution's general policy on the award of tenure.

## Common Undergraduate Admissions Application - S.B. 150

*by Senator Bivins*

*House Sponsor: Representative Maxey*

- Δ Requires the THECB to adopt, by rule, a common application form for use by a person seeking admission as a freshman student to a general academic teaching institution. Permits THECB to adopt a similar form for an undergraduate transfer student.
- Δ Requires the governing body of a university system to adopt a common admission application form to be used by any person seeking freshman or undergraduate transfer admission to one or more of the general academic teaching institutions within the system.
- Δ Requires the form to allow the applicant to apply electronically to one or more of the institutions and to indicate preferences for admissions between those institutions.

## Contracts and Compensation of Higher Education Administrators - S.B. 151 (Died in the House)

*by Senator Ogden*

- Δ Prohibits an administrator contract entered into by a governing board of a higher education institution from providing for more than three years of employment; allowing severance payments exceeding the net present value of the contract on termination; allowing developmental leave unless the leave is granted under certain conditions; or awarding tenure in a way that varies from the institution's regular policy on awarding tenure.
- Δ Prohibits a higher education institution from paying a salary to a person who is reassigned from an administrative position to a faculty position at the institution that exceeds the salary of other individuals with similar qualifications performing similar duties.
- Δ Requires a higher education institution to require an administrator who receives developmental leave to return to work at the institution for an amount of time equal to the duration of the development leave; or pay the institution for all of the costs of the developmental leave, including the administrator's salary if paid.

- △ Provides that a record pertaining to a contract between an institution and an administrator, including certain provisions, is public information and may not be withheld from public disclosure.

### **Texas New Horizons Scholarship Trust Fund - S.B. 576**

*by Senators Sibley and Armbrister  
House Sponsor: Representative Gallego*

- △ Requires THECB to issue scholarships to qualified students to pay for a recipient's tuition and required fees. Authorizes a scholarship to be used by the recipient to attend an eligible public higher education institution.
- △ Requires THECB to adopt rules as necessary for the administration of the Texas New Horizons Scholarships program.
- △ Sets forth requirements regarding eligibility for a scholarship.
- △ Provides that a person is not eligible to receive a scholarship if the person has been granted a baccalaureate degree; or has received an athletic scholarship.
- △ Requires each eligible institution to match any state funds with the local funds or institutional funds to be eligible to participate in the Texas New Horizons Scholarship program.
- △ Establishes the Texas New Horizons Scholarship Trust Fund (fund). Authorizes THECB to accept gifts and grants from any public or private source and to deposit a gift or grant to the credit of the fund. Authorizes the legislature to appropriate money to the Texas New Horizons Scholarship Trust Fund.
- △ Requires each eligible institution to transfer local funds provided by the institution to the fund. Requires THECB to use the funds transferred by an institution to provide scholarships to students attending the institution.

## Texas-Washington, D.C. Intern Scholarship - S.B. 1311

*by Senator Moncrief*

*House Sponsor: Representative Cuellar*

- △ Provides that the purpose of the Texas-Washington, D.C. Intern Scholarship Program is to provide a grant of money to enable a qualified person enrolled in a higher education institution to participate in a Washington, D.C. internship program.
- △ Requires a person to meet certain criteria to be eligible for a Texas-Washington, D.C. Intern Grant (grant).
- △ Requires the THECB to require an internship to meet certain standards.
- △ Requires the standards for selection of students to receive grants to include:
  - △ the socio-economic background of the applicant;
  - △ the extent to which the applicant has been responsible for financing the applicant's own education;
  - △ whether the applicant is a first generation college student;
  - △ the applicant's responsibilities while attending school, such as employment or child-raising duties;
  - △ the region of the state in which the applicant resides or resided during high school;
  - △ whether the applicant is, or during high school was, a resident of a rural or urban area;
  - △ the applicant's leadership, employment history, and involvement in community activities;
  - △ the applicant's personal statement of the purpose of the proposed internship and the role that internship would have on the applicant's education and personal and professional development;
  - △ letters of recommendation supporting the applicant's application for an internship; and
  - △ the applicant's personal interview.

## **Athlete Admissions - S.B. 1419**

*by Senator West, et al.*

*House Sponsor: Representative Rangel*

- △ Prohibits a general academic teaching institution (institution) from admitting an applicant who has been promised or granted an athletic scholarship unless the institution's minimum high school grade point average (GPA) requirement for freshman applicants, if applicable, applies to all freshmen being admitted; or for all other applicants, the applicant's cumulative college-level GPA is at least equal to the minimum GPA required for undergraduate students to remain enrolled at the institution in the preceding academic year.

## **Higher Education Funding Formulas - S.B. 1422**

*by Senator Ratliff*

*House Sponsor: Representative Junell*

- △ Provides the THECB with an additional three months before each legislative session to notify the higher education institutions, the governor, and the Legislative Budget Board of the formulas to be used in making appropriation requests for the next biennium.

## **Tuition Charges and Rebates - S.B. 1907**

*by Senator Bivins*

*House Sponsors: Representatives Swinford and Rangel*

- △ Redesignates the building use fee charged by the governing board of a higher education institution (institution) as tuition.
- △ Sets forth the maximum tuition for each semester credit hour that the governing board of an institution is authorized to charge, in addition to other authorized tuition charges, for the 1997-98 through 2000-01 academic years.
  - △ Provides that the aforementioned tuition charges collected by an institution are institutional funds and shall be accounted for as designated funds. Prohibits these funds from being accounted for in the General Appropriations Act in a way that would cause a reduction in the general revenue appropriation to an institution.
  - △ Authorizes the governing board of an institution to waive all or part of the tuition charged to a student if it finds that the payment of such tuition would cause the student an undue economic hardship.

## HIGHER EDUCATION

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- △ Provides that a statutory provision requiring a certain percentage of tuition to be set aside for grants and scholarships does not apply to tuition charged above.
- △ Authorizes the governing board of an institution to continue to charge as tuition the amount of the building use fee at the institution for the 1996-97 academic year without holding a public hearing, but prohibits an increase above that amount without a public hearing.
- △ Increases the resident tuition rate for a law school student from \$75 per semester credit hour to \$80 per semester credit hour. Provides that the nonresident tuition for a law school student is the amount charged to a nonresident graduate student.
- △ Authorizes the governing board of an institution to waive an authorized fee if it determines that a student is enrolled only in distance learning courses or other off-campus courses; the student cannot reasonably be expected to use the activities, services, or facilities on which the fee is based; and the waiver of the fee will not materially impair the ability of the institution to service any debt on which the fee is based or operate the particular activity, service, or facility supported by the fee.
- △ Prohibits the THECB from including in the funding formulas funding for semester credit hours earned by a resident undergraduate student who has previously attempted 170 or more semester credit hours for courses taken at any institution while classified as a resident student for tuition purposes. Provides certain exceptions.
- △ Authorizes an institution to charge a resident student tuition at a higher rate than the rate charged to other resident students but not exceeding the rate of nonresident students, for a course that THECB is prohibited from including in the funding formulas for the semester credit hours for which the student registers, if the student has previously attempted 170 or more semester credit hours.
- △ Provides that a qualified student is eligible for a rebate of up to \$1,000 of the undergraduate tuition the student has paid if the student is awarded a baccalaureate degree from a general academic teaching institution and has attempted no more than three hours in excess of the minimum number of semester credit hours required to complete the degree, including transfer credits and course credit earned exclusively by examination.
  - △ Requires the student, in order to qualify for a rebate, to have been a resident of this state and entitled to pay tuition at the resident student rate at all times while pursuing the degree.

- △ Requires the institution to apply the amount of the rebate to a student's loan if the student has an outstanding loan.
- △ Provides that it is the intent of the legislature that rebates shall be financed by savings to the state resulting from reductions in the number of courses taken by undergraduate students.
- △ Sets forth provisions for the payment of bonds issued to purchase, construct, or renovate facilities by securing or pledging revenue funds, including tuition, rentals, rates, or other charges.

## **Tuition and Fee Increases - H.B. 65**

*by Representative Kamel*  
*Senate Sponsor: Senator Cain*

- △ Prohibits a higher education institution that sets tuition rates and fees for a semester or summer term from increasing the tuition rate and fees charged to a student for that semester or summer term after the student registers, regardless of whether that student has paid the tuition and fees for that semester or summer term.

## **Tuition Exemption for Educational Aides - H.B. 571**

*by Representative Rangel, et al.*  
*Senate Sponsor: Senator Barrientos*

- △ Requires the governing board of a higher education institution to exempt an eligible educational aide from the payment of tuition and fees, other than class or laboratory fees.
- △ Prohibits application of the student internship teaching requirement for teaching certification if the person who receives a bachelor's degree has at least two years of classroom working experience as an educational aide.
- △ Requires the foundation school fund savings occurring as a result of the Early High School Graduation Scholarship program, which are not required for the funding of state tuition credits under that program, to be used first to provide a one-year tuition and fees exemption for certain Aid to Families With Dependent Children (AFDC) students.
  - △ Requires any remaining savings to be used to provide tuition exemptions for educational aides.
  - △ Requires the Texas Education Agency to also accept and make gifts, grants, and certain donations available to provide tuition exemptions for educational aides.

## Uniform Admission Policy - H.B. 588

*by Representative Rangel, et al.*

*Senate Sponsor: Senator Barrientos*

- △ Provides that it is the intent of the legislature that all higher education institutions pursue academic excellence by considering students' academic achievements in decisions related to admissions. Requires each general academic teaching institution (institution) to consider certain socioeconomic factors in making first-time freshman admissions decisions because of changing demographic trends, diversity, and population increases in the state.
- △ Requires each institution to admit an applicant for admission to the institution as an undergraduate if the applicant graduated in the top 10 percent of the student's class from an accredited public or private high school in this state within the preceding two years.
  - △ Requires the institution, after admitting the applicant, to review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work, or would benefit from inclusion in a retention program.
- △ Requires the governing board of each institution to determine whether to adopt an admissions policy under which an applicant to the institution as a first-time freshman student, other than an applicant eligible for admission because of placing in the top 10 percent of the class, shall be admitted to the institution if the applicant graduated from an accredited public or private high school in this state with a grade point average in the top 25 percent of the applicant's high school graduating class.
- △ Authorizes a graduating student who does not qualify for admissions under either category above to apply to any institution.
  - △ Requires the institution, after admitting students in the top 10 or 25 percent of their class, to admit other applicants for admission as an undergraduate.
- △ Requires each institution to provide an annual report to THECB describing the composition of the entering class of admitted students. Requires the report to include a demographic breakdown, including a breakdown by race, ethnicity, and economic status of the students admitted.

## HIGHER EDUCATION

- △ Requires each institution or medical or dental unit that offers admissions to undergraduate transfer students or to a graduate, postgraduate, or professional program to also adopt a written admission policy applicable to those programs.
- △ Requires an institution or medical or dental unit that offers competitive scholarships or fellowships to adopt a written policy describing the factors to be used by the institution or unit in making the award.

### **Texas Chiropractic College - H.B. 621**

*by Representative Jackson, et al.*

*Senate Sponsor: Senator Patterson*

- △ Requires the THECB to determine by August 31, 1998, if Texas Chiropractic College (TCC) should be made a higher education institution.
  - △ Requires THECB to determine the university system governing board best suited to govern and provide direction to TCC if it is made a higher education institution.
- △ Provides that TCC is transferred, effective September 1, 1998, if the board of trustees of TCC and the governing board of the university system both agree to the transfer and THECB approves the transfer by August 31, 1998.
- △ Provides that if TCC is transferred, the Education Code is amended to add Chapter 114 to provide that the chiropractic college formerly constituting TCC is now a component higher education institution of the university system to which TCC was transferred.

### **Tuition Exemption for Disabled Police Officers - H.B. 640**

*by Representative Kamel, et al.*

*Senate Sponsor: Senator Cain*

- △ Authorizes the governing body of an institution of higher education to exempt from tuition and fees, if space is available, a student who is a resident of this state and has resided in the state for 12 months immediately preceding the beginning of the semester or session for which an exemption is sought; permanently disabled as a result of an injury suffered during the performance of a duty as a peace officer of this state or a political subdivision of this state; and is unable to continue employment as a peace officer because of the disability.

- △ Prohibits a person from receiving an exemption under this section if the person is attending postgraduate courses to meet the requirements of a master's degree program and the person has previously received a master's degree and received an exemption under this section for a master's degree program.
- △ Prohibits a person from receiving an exemption under this section if the person is attending postgraduate courses to meet the requirements of a doctoral degree program and the person has previously received a doctoral degree and received an exemption under this section for a doctoral degree program.

## **Sale of an Academic Product - H.B. 762**

*by Representative Averitt*

*Senate Sponsor: Senator Bivins*

- △ Provides that a person commits a Class C misdemeanor if:
  - △ with intent to make a profit, the person prepares, sells, offers or advertises for sale, or delivers to another person an academic product when the person knows that a person intends to submit or use the academic product to satisfy another person's academic requirement;
  - △ with intent to induce another person to enter into an agreement or obligation to obtain or have prepared an academic product, the person knowingly makes or disseminates a written or oral statement that the person will prepare or cause to be prepared an academic product to be sold for use in satisfying another person's academic requirement.
- △ Provides that it is a defense to prosecution that the actor's conduct consisted solely of:
  - △ action taken as an employee of a higher education institution in providing instruction, counseling, or tutoring in research or writing to the students of the institution;
  - △ offering or providing tutorial or editing assistance to another person in preparation of an academic product to satisfy an academic requirement, and the actor does not offer to provide substantial preparation, writing, or research in the production of the assignment;  
or
  - △ typing, transcribing, or reproducing a manuscript for a fee, or offering to do so.

- △ Defines "academic product" to include a term paper, thesis, dissertation, essay, report, recording, work of art, or other material submitted by a person to satisfy an academic requirement.

### **Tuition Exemption for Students in Foster or Other Residential Care - H.B. 767**

*by Representative Junell, et al.*

*Senate Sponsor: Senator Lindsay*

- △ Exempts a student meeting certain requirements from the payment of tuition and fees, including if the student:
  - △ was in foster care or other residential care under the conservatorship of the Department of Protective and Regulatory Services on or after the day of the student's 14th birthday if the student was also eligible for adoption on or after that day; or the day the student graduated from high school or received the equivalent of a high school diploma; and
  - △ enrolls in a higher education institution as an undergraduate not later than the third anniversary of the date the student was discharged from the foster or other residential care, the date the student graduated from high school, or the date the student received the equivalent of a high school diploma, whichever is earliest; or the student's 21st birthday.

### **Distance Learning - H.B. 1404**

*by Representative Kamel, et al.*

*Senate Sponsor: Senator Bivins*

- △ Authorizes a public technical institute, public community college, or public college or university to offer a distance learning course approved by the THECB with no in-state geographic restrictions if the course is within the approved curriculum of the institution.
- △ Requires THECB to encourage collaborative efforts to make the benefits of computer access to educational opportunities widely available in order to facilitate the delivery of courses by distance learning and to improve access to those courses.

- △ Requires THECB to maintain a central informational resource accessible to the general public, to be called Texas College On-Line, on which higher education institutions can place information relating to all computer-accessible distance learning courses offered for credit by higher education institutions and including computer links, addresses, or other directions to assist a person in obtaining additional information directly from the appropriate institution.

### **Tuition for Students Outside a District - H.B. 1548**

*by Representative Sylvester Turner*

*Senate Sponsor: Senator Galloway*

- △ Authorizes the governing board of a public junior college district (district) to allow a person who resides outside the district and who owns property subject to ad valorem taxation by the district, or a dependent of that person, to pay tuition at the rate applicable to a student who resides in the district.
- △ Authorizes the governing board of a public junior college district to allow a person who resides outside the district and in the taxing district of a contiguous district to pay tuition and fees at the rate applicable to a student who resides in the district.
- △ Authorizes the governing board of a district to allow a person who resides outside the district to pay tuition and fees at a rate less than the rate applicable to other persons residing outside the district, but not less than the rate applicable to a student who resides in the district, if the person:
  - △ resides within the service area of the district;
  - △ does not reside in an independent school district that meets the criteria of the THECB for establishment of a district, and
  - △ demonstrates financial need in accordance with rules adopted by THECB.

### **Study of Minority Participation - H.B. 2146**

*by Representatives Maxey and Dukes*

*Senate Sponsor: Senator Ellis*

- △ Requires the THECB to collect data and maintain a database relating to participation of members of racial and ethnic minority groups in this state in public higher education, including data relating to minority applications, recruitment, admissions, retention, graduation, and professional licensing at both undergraduate and graduate levels.

- △ Requires the study to consider any factors THECB can identify that may have affected or be affecting those application and admission rates of public higher education institutions, including recent legal developments; recent changes in the application or student recruiting procedures; and recent changes in admissions standards or practices.
- △ Requires THECB to maintain a continuous study of the data collected and of the factors affecting that data.
- △ Requires THECB, through a memorandum of understanding, to work in conjunction with the Office of the Comptroller in conducting the study in order to avoid duplication with any other study by the comptroller.
- △ Requires THECB to report its activities and findings of the study to the governor, lieutenant governor, and speaker by December 1, 1998.

### **Performance Reports of Junior College Districts - H.B. 2517**

*by Representative Dunnam*  
*Senate Sponsor: Senator Shapleigh*

- △ Requires a junior college district (district), as soon as practicable after the end of each academic year, to prepare an annual performance report for that academic year, beginning with the 1997-98 academic year.
- △ Requires the Legislative Budget Board to develop recommended standards for the reports, in consultation with districts, THECB, the governor's office of budget and planning, and the state auditor.
- △ Requires the state auditor, in advance of an independent audit of a district, to provide the presiding officer of the district's governing body and the chief executive officer of the district with written information relating to the procedures for and scope of the audit.
  - △ Requires the state auditor to seek the recommendations of THECB in preparing the materials.

### **Early High School Graduation Scholarship - H.B. 3356**

*by Representative Rangel*  
*Senate Sponsor: Senator Barrientos*

- △ Requires the commissioner of education to transfer to THECB, from funds appropriated for the Foundation School Program, an amount to pay each eligible higher education institution the amount of state tuition credit applied by the institution for a student participating in the Early High School Gradation Scholarship Program.

## HIGHER EDUCATION

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- Δ Requires THECB to distribute the appropriate amount of funds to each eligible institution when THECB receives the funds from the commissioner of education.

## Alternative Education – S.B. 133

*by Senators Bivins and Nelson*

*House Sponsor: Representative Dutton*

- △ Exempts a child compulsory school attendance requirements if legally expelled in a school district (district) that does not participate in a mandatory juvenile justice alternative education program (JJAEP).
- △ Requires the board of trustees of a district (board), with appropriate advice, to adopt a student code of conduct for the district. Requires the code of conduct to be posted and prominently displayed at each school campus.
- △ Establishes guidelines for placement of a student in an alternative education program (AEP).
  - △ Requires placement for certain criminal offenses committed on or within 300 feet of school property, or while attending a school-related activity.
  - △ Requires placement for felony offenses against another person if the student receives deferred prosecution, is found to have engaged in, or is reasonably believed to have engaged in the offense, and it is committed off campus and not at a school-related activity.
  - △ Authorizes placement for other felony offenses if there is reasonable belief that the student engaged in the offense and the student's presence in the regular classroom is a threat to safety or will be detrimental to the education process.
  - △ Requires placement of a student younger than 10 years of age who is engaged in any of the aforementioned conduct.
- △ Sets forth requirements for review and appeal of a student's placement in an AEP.
- △ Entitles a district providing educational services to count pre-adjudicated and post-adjudicated students who are confined in a county juvenile residential facility in the district's average daily attendance for state funding purposes.
- △ Authorizes a student to be expelled for conduct involving illegal drugs, alcohol, glue, or aerosol paint while on school property or at a school-related activity.

## PUBLIC EDUCATION

- △ Requires a student to be expelled for at least one year for bringing a firearm to school, with certain exceptions.
- △ Prohibits a student who is younger than 10 years of age from being expelled for engaging in certain conduct, unless otherwise specified.
- △ Provides that a district is not required to provide AEP courses other than those specified by law.
- △ Requires the commissioner of education to adopt rules necessary to administer the public school accountability system for AEPs.
- △ Requires the scheduling of a conference, with certain parties, for a student removed from class. Entitles the student to receive an explanation for the removal at the conference, and provides an opportunity to respond.
- △ Requires a student placed in AEP to be provided a review of the student's status, including a review of the student's academic status. Also requires the establishment of a specific graduation plan for a high school student.
- △ Entitles the student to be represented at an expulsion hearing. Authorizes the district to hold the hearing regardless of whether the student or the student's representative is present, if the district has made a good-faith effort to contact them.
- △ Requires an expelled student, in a county that operates a JJAEP, to immediately attend the educational program from the date of expulsion.
- △ Prohibits a district from refusing to admit a student after the student successfully completes any court disposition requirements. Authorizes the district to place a student in an AEP.
- △ Authorizes the district to which an expelled student transfers to continue the expulsion; place the student in an AEP for the period specified; or allow the student to attend regular classes.
- △ Requires the juvenile court to place a student in a JJAEP if a student is expelled for certain offenses. Requires consideration of the district's expulsion order in determining placement.
- △ Requires each district to approve JJAEP course credits earned by a student the same as school credits.

## PUBLIC EDUCATION

- △ Requires the regular review of the student's academic progress in a JJAEP. Provides that a district is not required to provide JJAEP courses other than those specified by law.
- △ Requires the Texas Juvenile Probation Commission (TJPC), with commissioner approval, to develop and implement a system for ensuring students attending a JJAEP make progress toward grade level.
- △ Requires TJPC to adopt rules for the distribution of funds appropriated to juvenile boards. Provides that certain students served by a JJAEP on the basis of an expulsion are not eligible for state funding.
- △ Requires certain districts and county juvenile boards to annually enter into a joint memorandum of understanding (MOU) which outlines the duties and services of a JJAEP.
  - △ Requires the district to provide educational programs to expelled students not eligible for admission into a JJAEP. Authorizes the district to contract with another entity to provide programs.
  - △ Authorizes a binding arbitration process if the district and county juvenile board cannot agree on an MOU.
- △ Provides immunity from liability, when operating a JJAEP, for a juvenile board and a county commissioners court and their employees and volunteers to the same extent as a district.
- △ Requires a JJAEP certified educator to be eligible for the Teacher Retirement System of Texas to the same extent as a district employee.
- △ Requires each district to annually report to the commissioner relating to students placed in AEPs and students who were expelled.
- △ Requires a law enforcement agency to notify the district, within 24 hours, of the arrest or referral to juvenile court of any student committing a felony offense. Requires the district to notify all personnel who supervise the student.
- △ Requires notification to the district removing the student to an AEP if the student's case was refused or dismissed, the student is found not guilty, or certain determinations are made.
- △ Prohibits a student from being expelled in a county where a JJAEP is operated without written notification by the district.

- △ Requires the release of an expelled child in certain counties to be contingent on attending a JJAEP, pending certain actions.

## **JJAEP Employees - S.B. 135**

*by Senator Bivins*

*House Sponsor: Representative Gray*

- △ Provides that a juvenile board and a commissioners court of a county, in relation to the development and operation of a juvenile justice alternative education program, are immune from liability to the same extent as a school district.
- △ Provides that the juvenile board's or county's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

## **Performance Incentives - S.B. 168**

*by Senator Haywood*

*House Sponsor: Representative Greenberg*

- △ Requires a performance incentive awarded to a principal to be distributed to the principal's campus in the manner determined by the campus-level planning and decision-making committee in accordance with the statutory provisions relating to use of monetary awards.
- △ Requires the commissioner of education to develop a study on establishing an incentive grant program for all classes of educators to be reported to the legislature by December 1, 1998.
  - △ Requires the study to focus on developing objective methods for the issuance of grants in the areas of student performance, continuing education, and professional duties performed by teachers in addition to classroom duties.

## **Teacher Minimum Salary Schedule - S.B. 280**

*by Senator Zaffirini*

*House Sponsor: Representative Tillery*

- △ Requires the commissioner of education to adopt rules for determining the experience for which a teacher or librarian is to be given credit in placing the teacher or librarian on the state minimum salary schedule.
- △ Requires a school district to credit the teacher or librarian for each year of experience without regard to whether the years are consecutive.

## Computer Network Study Project - S.B. 294

*by Senators Sibley and Shapleigh*  
*House Sponsor: Representative Maxey*

- △ Requires the Texas Education Agency (TEA) to develop a study project to determine the costs and benefits of using computer networks, including the Internet, in public schools. Requires the commissioner of education (commissioner) to determine the issues to be studied in the project, including the possibility of delivering, through a computer network, updated supplements to textbooks.
- △ Requires an advisory committee to be appointed to assist TEA in the study project.
  - △ Requires the commissioner to appoint the advisory committee agency personnel, textbook publishers, educators, students, and technology experts.
  - △ Requires the presiding officers of the senate and the house of representatives to each appoint two members of the legislature to serve on the advisory committee.
- △ Sets forth requirements of the study.
- △ Requires the commissioner to appoint a subcommittee to investigate the feasibility and cost-effectiveness of developing electronic textbooks to be used by students who are blind or have other disabilities.
- △ Requires TEA to report the results of the study project to the 76th Legislature by February 1, 1999.

## Public School Technology Allotment - S.B. 297

*by Senators Ratliff and Bivins*  
*House Sponsor: Representative Junell*

- △ Requires the State Board of Education to determine the amount of the available school fund to set aside for the state textbook fund to provide an allotment to each public school district equal to at least \$30 per student in average daily attendance for any year provided by appropriation to purchase instructional technology and pay for teacher instructional technology training.
- △ Provides that this act takes effect immediately and applies beginning with the 1996-97 school year.

## Public School District Residency - S.B. 462

*by Senator Luna*

*House Sponsor: Representative Hernandez*

- △ Requires the board of trustees of a school district to admit a student with no tuition charge into the district's public schools who is between the ages of five and 21 on the first day of September of the school year in which admission is sought if the person does not reside in the district but one of the parents resides in the district and the parent has joint custody and is a joint managing conservator of the person.

## School Child Care Services Program - S.B. 503

*by Senator Ellis, et al.*

*House Sponsors: Representatives Olivo and Greenberg*

- △ Reestablishes the school child care services program.
- △ Authorizes the Work and Family Policies Clearinghouse to distribute money appropriated by the legislature to any school district to implement child care before and after the school day and during school holidays and vacations for the district's school-aged students.
- △ Adds "prekindergarten" to program information the Texas Workforce Commission shall distribute to school districts.

## Regional Education Service Centers - S.B. 1158

*by Senator Luna*

*House Sponsor: Representative Sadler*

- △ Requires regional education service centers (center) to be located throughout the state so that each school district (district) has the opportunity to be served and to participate on a voluntary basis, in a center that meets the accountability standards established by the commissioner of education (commissioner).
- △ Requires the commissioner, rather than the Texas Education Agency, to provide for the establishment and operation of no more than 20 centers. Authorizes the commissioner to decide any matter concerning the operation or administration of the centers.

## PUBLIC EDUCATION

- △ Provides that the provisions relating to centers do not limit a district's freedom to purchase services from any center, or require a district to purchase services from a center.
- △ Requires centers to assist districts in improving student performance; enable districts to operate more efficiently and economically; and implement initiatives assigned by the legislature or commissioner.
- △ Sets forth administrative provisions relating to the governance, executive director, tax status, immunity from liability, and employee leave policy of a center.
- △ Requires centers, subject to approval of the board of directors, to offer programs and activities to districts and campuses for core services, student improvement services, and additional contracted services.
  - △ Requires each center to annually develop and submit to the commissioner for approval a plan for improvement that must include the purposes and description of the services the center will provide to schools, particularly low-performing campuses.
  - △ Requires each center to maintain core services for teacher training and assistance, district assistance, administrator training and assistance, and legal compliance assistance.
- △ Authorizes a center to purchase or lease property or acquire property through a lease-purchase agreement. Authorizes a center to incur debts for this purpose.
- △ Requires the commissioner to establish performance standards and indicators for centers. Sets forth criteria for the performance standards and indicators.
- △ Sets forth requirements for the funding of centers through the Foundation School Program.
- △ Authorizes the legislature to appropriate money from the foundation school fund to establish an incentive fund to encourage efficiency in the provision of services by the centers.
- △ Authorizes the legislature to appropriate money from the foundation school fund or other sources to implement initiatives identified by the legislature.
  - △ Authorizes the commissioner to adopt rules governing the strategies, programs, projects, and regions eligible for the initiative funding.

## Written Reports - S.B. 1221

*by Senator Luna*

*House Sponsor: Representative Hernandez*

- △ Requires the board of trustees of each school district, after soliciting recommendations from the local planning and decision-making committees, to annually consider the number and length of written reports that employees of the district are required to prepare.

## Grants by the Commissioner of Education to Certain School Districts - S.B. 1414 (Filed in the House)

*by Senator Luna*

- △ Requires the commissioner of education, when determining the compensatory education allotment of a school district to:
  - △ give consideration to a district's degree of concentration of disadvantaged students in determining the number of students in the district eligible for extended year programs;
  - △ distribute state funds for extended year programs so that a district's share of the cost of such programs, as determined by the commissioner, is proportional to the district's share of the cost of its Tier One program in the public school finance system; and
  - △ provide for phasing in the district's share, if its share would cause the district to be eligible for a lesser amount of state funds per weighted student in the 1998-1999 school year than in the 1996-1997 school year, and provided that the district's property value per weighted student is less than one-half of the state average property value per weighted student. This provision expires September 1, 2000.

## Campus and Campus Program Charters - S.B. 1653

*by Senator Nelson*

*House Sponsor: Representative Culberson*

- △ Requires each school district to adopt a campus charter and campus program charter policy by January 1, 1998. Requires the policy to specify:
  - △ the process to be followed for approval of a campus charter or campus program charter;
  - △ the statutory requirements with which a campus charter or campus program charter must comply; and
  - △ the items that must be included in a charter application.

## School Finance - S.B. 1873

*by Senator Bivins*

*House Sponsor: Representative Hochberg*

- △ Abolishes the Foundation School Fund Budget Committee.
- △ Continues the hold harmless provision through the 1999-2000 school year.
- △ Subtracts from a school district's effective tax rate any amounts paid into a tax increment fund.
- △ Eliminates from recapture a school district's debt service tax revenue and any amounts paid into a tax increment fund.
- △ Clarifies provisions relating to the equalized funding elements and the cost of education index adjustment.
- △ Authorizes compensatory education funds to be spent only to improve and enhance services funded under the regular education program. Requires the State Board of Education, with the assistance of the state auditor and the comptroller, to develop and implement a reporting and auditing system for school district and campus expenditures of compensatory education funds to ensure the funds are spent only to supplement the regular education program.
- △ Provides that the guaranteed level of state and local funds per weighted student per cent of tax effort is \$21, rather than \$20.55, or a greater amount as provided by appropriation.
- △ Provides that in computing the enrichment and facilities tax rate of a school district, the total amount of taxes collected by a school district does not include taxes paid into a tax increment fund.
- △ Prohibits a school district that demonstrates to the attorney general that its ability to pay the principal and interest on proposed bonds for school facilities is contingent on receiving state assistance from adopting a tax rate for a year for paying the principal of and interest on the bonds unless the district credits to the interest and sinking fund account of the bonds the amount of that year's state assistance.
- △ Authorizes state funds not designated for a specific purpose to be used for the purposes listed for state and county available funds and other purposes necessary in the conduct of the public schools.

- △ Entitles the Texas Academy of Leadership in the Humanities at Lamar University at Beaumont to allotments from the Foundation School Fund for each student in the academy as if the academy were a school district, except that the academy has a local share applied that is equivalent to the local fund assignment of the Beaumont Independent School District.
- △ Provides that a homestead exemption of up to 20 percent for the 1997 tax year, adopted by the board of trustees of a school district before July 1, 1997, is valid.

### **"Read to Succeed" License Plates and Reading Diagnosis Programs - H.B. 107**

*by Representative Giddings, et al.*

*Senate Sponsor: Senator Ratliff*

- △ Requires the Texas Department of Transportation (TxDOT) to issue specially designed "Read to Succeed" license plates for passenger cars and light trucks.
- △ Requires TxDOT to set the annual fee for the license plates at \$25 for each set (\$15 per set for a fleet of at least 50) plus an administrative fee of no more than \$5.
- △ Requires TxDOT to deposit the annual fee for the license plates, except for the administrative fee, to the credit of the "Read to Succeed" account in the general revenue fund, with the money to be used to implement the reading diagnosis provisions of the Education Code.
- △ Requires the commissioner of education (commissioner) to develop recommendations for school districts for administering reading instruments to diagnose student reading development and comprehension; training educators in administering the reading instruments; and applying the results of the reading instruments to instructional programs.
- △ Requires the commissioner to adopt, by August 1, 1998, a list of reading instruments that a school district (district) may use to diagnose student reading development and comprehension. Authorizes a district-level planning and decision-making committee to adopt a list of reading instruments in addition to the commissioner's list.
  - △ Requires each district to administer, at the kindergarten and first and second grade levels, a reading instrument on either the commissioner's or the district-level planning and decision-making committee's list.

- △ Prohibits the results of the reading instruments from being used for purposes of appraisals and incentives or accountability.
- △ Authorizes implementation of the reading diagnosis provisions only if funds are appropriated. Authorizes funds, other than local funds, to be used to pay the cost of administering the reading instrument only if the instrument is on the list adopted by the commissioner.
- △ Requires each school district to implement a reading diagnosis program and the related recommendations beginning with the 1998-99 school year.

## **Open-Enrollment Charters and the Public Education Grant Program - H.B. 318**

*by Representative Cuellar, et al.  
Senate Sponsor: Senator Bivins*

- △ Authorizes the State Board of Education to grant up to 100 charters for open-enrollment charter schools that adopt an express policy providing for the admission of students eligible for a public education grant and additional charters for open-enrollment charter schools for which at least 75 percent of the prospective student population will be students who have dropped out of school or are at risk of dropping out of school.
- △ Sets forth eligibility provisions regarding a student seeking a public education grant or wishing to attend another public school in the district in which the student resides.
- △ Requires a school district, after being notified by the commissioner of education, to notify the parent of each student in the district assigned to attend a low-performing campus that the student is eligible for a public education grant.
- △ Sets forth provisions for determining the amount of funding to which each school district is entitled for every student using a public education grant to attend a school in the district.

## **Public Education - H.B. 583**

*by Representative Maxey  
Senate Sponsor: Senator Barrientos*

- △ Requires the TEA to develop, implement, and administer programs and activities to encourage and maintain parental involvement in public schools.

## PUBLIC EDUCATION

- △ Requires the commissioner of education (commissioner) to attempt to consolidate all TEA programs and activities related to parental involvement to ensure greater and easier access by parents and to ensure greater efficiency of TEA operations.
- △ Requires the application of a school district for a waiver of a requirement, restriction, or prohibition imposed by the Education Code or a rule of the State Board of Education or commissioner to contain certain information.
- △ Prohibits a student who has been adjudicated as having engaged in delinquent conduct that included the offense of indecency with a child, sexual assault, or aggravated sexual assault, or has been convicted of any of those offenses, from being assigned to the same class as the victim of that delinquent conduct or offense without the consent of the victim's parent or of the victim, if the victim is 18 years of age or older, unless the principal determines that such placement is the only alternative.
  - △ Authorizes the victim's parent or the victim to appeal the principal's decision to the board of trustees (board) of the district. Provides that the decision of the board is final and may not be appealed.
- △ Requires a student to be removed from class and placed in an alternative education program (AEP) if the student commits certain criminal offenses on school property or within 300 feet of school property, or while attending a school-sponsored or school-related activity on or off school property.
- △ Requires a student to be removed from class and placed in an AEP if the student receives deferred prosecution for a felony offense under Title 5, Penal Code (Offenses Against a Person); if a court or jury finds that the student has engaged in a felony offense under Title 5, Penal Code; or the superintendent or the superintendent's designee has a reasonable belief that the student engaged in a felony offense under Title 5, Penal Code.
- △ Authorizes a student to be removed from class and placed in an AEP if the superintendent or the superintendent's designee has a reasonable belief that the student engaged in a felony offense other than an offense defined under Title 5, Penal Code; and the continued presence of the student in the regular classroom threatens the safety of another student or teacher or will be detrimental to the education process.
- △ Sets forth procedures for review and appeal of a student's placement in an AEP.

## PUBLIC EDUCATION

- △ Requires the campus report card issued by TEA to contain certain information, including the toll free phone number of TEA's parental involvement division and the toll free phone number of TEA to call for information concerning student assessment instruments.
- △ Authorizes local school funds and state funds not designated for a specific purpose to be used for purposes necessary in the conduct of public schools as determined by the district board.
- △ Requires a law enforcement agency that arrests or refers to the official designated by the juvenile court an individual who the agency believes is enrolled in a public school for a felony offense to attempt to ascertain whether the individual is enrolled.
- △ Requires the law enforcement agency, if it can or cannot ascertain that the individual is enrolled in a public school, to orally notify the district superintendent or the superintendent's designee of the arrest or referral within 24 hours of the arrest or referral or on the next school day.
  - △ Requires the superintendent to notify all instructional and support personnel who are responsible for the supervision of the student.
  - △ Sets forth requirements of both the oral and written notification to be provided to the district superintendent by the law enforcement agency.
- △ Requires the district superintendent to notify all instructional and support personnel responsible for the supervision of a student upon receiving notification by the prosecuting attorney of a student's prosecution or adjudication of delinquent conduct.
- △ Requires school officials to notify all instructional and support personnel who are responsible for the supervision of a newly transferring student upon receiving notification from a parole or probation officer having jurisdiction over the student of the student's arrest or referral.
- △ Requires the office of the prosecuting attorney, or the office or official designated by the juvenile court, to notify the district that removed a student to an AEP, within two working days after the action, if the prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and a formal proceeding, deferred adjudication, or deferred prosecution will not be initiated; or the court or jury found the student not guilty or made a finding that the student did not engage in delinquent conduct or conduct indicating a need for supervision, and the case was dismissed without prejudice.

## Promotion After Completing an Extended Year Program - H.B. 836

*by Representatives Gallego and Luna*  
*Senate Sponsor: Senator Bivins*

- △ Requires a student who attends at least 90 percent of the program days of the extended year program and who satisfies requirements for promotion through academic achievement or demonstrating proficiency of the subject matter or grade level to be promoted to the next grade level at the beginning of the next school year unless a parent of the student presents a written request to the school principal that the student not be promoted to the next grade level.

## Testing of Natural Gas Piping Systems in School District Facilities - H.B. 1611

*by Representative Turner*  
*Senate Sponsor: Senator Shapiro*

- △ Requires each school district to pressure test the natural gas piping system in each facility at least every two years before the beginning of the school year.
- △ Requires the pressure test to determine whether the natural gas piping downstream of the school district's meter holds at least normal operating pressure over a specified period. Sets forth requirements of the test.
- △ Requires each school district to provide written notice to the district's natural gas supplier specifying the date and result of each pressure test or other inspection.
- △ Requires the supplier to terminate service to a school district facility if the supplier receives notification of a gas leakage or if the district fails to perform the test or inspection at the facility.
- △ Requires an identified natural gas leakage to be reported to the school district's board of trustees.
- △ Requires the Texas Railroad Commission to enforce these provisions.

## Assessment of Students in Special Education Programs - H.B. 1800

*by Representative Hochberg*  
*Senate Sponsor: Senator Barrientos*

- △ Requires all students, except students assessed as special education program students, students with limited English proficiency, or others meeting certain criteria, to be assessed in reading, mathematics, writing, social studies, and science at certain grade levels.
- △ Requires TEA to develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program who receives instruction in the essential knowledge and skills as identified by the State Board of Education, but for whom the assessment instruments for all other students adopted by TEA for reading, writing, mathematics, social studies, and science, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.
  - △ Requires the assessment instrument for students in a special education program to assess competencies and growth in reading, mathematics, and writing.
  - △ Requires a student's admission, review, and dismissal committee to determine whether any allowable modification is necessary in administering to the student a special education program student assessment instrument.
  - △ Requires the special education program student assessment instruments to be administered on the same schedule as the assessment instruments for all students.
- △ Requires the admission, review, and dismissal committee of a special education program student to determine whether any allowable modification is necessary in administering to the student a secondary exit-level assessment instrument for mathematics and English language arts or whether the student should be considered exempted.
- △ Requires the admission, review, and dismissal committee of a special education program student to determine whether any allowable modification is necessary in administering to the student a secondary grade end-of-course assessment instrument for Algebra I, Biology I, English II, and United States history or whether the student should be exempted.

## PUBLIC EDUCATION

- △ Requires TEA to initially release the question and answer key to each special education program student assessment instrument during the third school year in which the instrument is administered after the last time the instrument is administered for that school year.
- △ Requires the admission, review, and dismissal committee of a student being assessed with a special education program assessment instrument to determine the level of performance considered to be satisfactory on the assessment instruments administered to the student in accordance with criteria established by TEA rule.
- △ Requires the intensive program for students who did not perform satisfactorily on a special education program student assessment instrument to be designed by each student's admission, review, and dismissal committee to enable the student to attain a standard of annual growth on the basis of the student's individualized education program.
- △ Sets forth circumstances under which a student may be exempted from the administration of an assessment instrument for all students, special education program students, mathematics and English language arts at the secondary exit-level, and for the end-of-course assessment Algebra I, Biology I, English II, and United States history at the secondary grade levels.
  - △ Requires the commissioner of education to develop and adopt a process for review of the exemption process of a school district or shared services arrangement that gives a certain number of exemptions in relation to the average daily attendance.
- △ Requires the performance indicators for assessment instruments of the Academic Excellence Indicators to include the results of the special education program student assessment instruments beginning with the 2002-03 school year. Prohibits those results of the special education program student assessment instruments from being aggregated by grade level or subject area.
- △ Entitles a parent to access to a copy of each state assessment instrument administered, including the special education program student assessment instrument.

**Lottery Administration - S.B. 581**

*by Senator Ratliff*

*House Sponsor: Representative Junell*

- △ Reduces the statutory maximum of money in the state lottery account which may be expended for lottery operation and administration from 15 percent to 12 percent of gross revenue from lottery ticket sales in a fiscal biennium.

**Lottery Prize Deduction - H.B. 566**

*by Representatives Oliveira and Yarbrough*

*Senate Sponsor: Senator Ellis*

- △ Requires the executive director of the Texas Lottery Commission to deduct from the lottery winnings of persons delinquent in the payment of child support payments.

**Texas Racing Commission/Sunset - H.B. 1445**

*by Representative Gray*

*Senate Sponsor: Senator Armbrister*

- △ Continues the Texas Racing Commission (TRC) until September 1, 2005 and makes standard revisions suggested by the Sunset Commission.
- △ Authorizes TRC to adopt rules to prohibit false, misleading, or deceptive practices except those restricting competitive bidding or advertising.
- △ Requires TRC to employ all of the judges and all of the stewards for the supervision of a horse race or greyhound race meeting. Sets forth regulations regarding stewards or judges.
- △ Provides for the recognition of an organization representing members of a segment of the racing industry by TRC.
- △ Requires TRC to revoke, suspend, or refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation.
- △ Requires TRC to adopt certain rules prohibiting a person from unlawfully influencing or affecting the outcome of a race. Sets forth regulations regarding the unlawful influence of a race.
- △ Provides for TRC actions regarding drug testing.

## **GAMBLING**

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- Δ Authorizes the executive secretary of TRC to issue a cease and desist order if the executive secretary reasonably believes an association or other licensee is engaging or likely to engage in conduct that violates the Texas Racing Act or a TRC rule.
- Δ Requires TRC, by rule, to provide for the enforcement of policies relating to the horsemen's account of an association.
- Δ Provides regulations regarding criminal history checks by TRC on an applicant for a license.
- Δ Authorizes TRC to adopt rules regarding the regulation of inappropriate or unsafe conditions and supervision and approval of construction, renovation, or maintenance of a racetrack facility.
- Δ Authorizes TRC to summarily suspend a racetrack license if TRC determines that a racetrack is being operated in a manner that constitutes an immediate threat to the health, safety, or welfare of the participants in racing or the patrons.
- Δ Provides regulations regarding a horse racing association's distribution of wagering pools on simulcasts of other races.
- Δ Requires TRC to adopt reporting, monitoring, and auditing requirements or other appropriate performance measures for funds generated by live or simulcast pari-mutuel racing.
- Δ Authorizes interstate cross-species simulcasting.
- Δ Sets forth regulations regarding deductions and distributions of deductions from live, simulcast, and cross-species simulcast pari-mutuel pools.
- Δ Sets forth the state's share of pari-mutuel racing pools and provides for the reimbursement of all general revenue debts owed by TRC for the administration and enforcement of the Texas Racing Act.
- Δ Authorizes TRC to waive any prerequisite to obtaining a license for an applicant who holds a valid license from another state that has license requirements substantially equivalent to those of this state.
- Δ Requires TRC to adopt rules to prohibit wagering by a minor and to prohibit a minor from entering the viewing section of a racetrack unless accompanied by the child's parent or guardian.

- △ Sets forth regulations regarding criminal offenses in relation to a racetrack, including forging a pari-mutuel ticket, impersonating a licensee, unlawful influence on racing, and bribery and corrupt influence. Sets forth regulations regarding search and seizure at a racetrack facility.

## **Bingo - H.B. 2086**

*by Representative Palmer*

*Senate Sponsor: Senator Lucio*

- △ Requires the Texas Lottery Commission (TLC) to employ a director of bingo operations.
- △ Increases the maximum prize allowed for a single game of bingo from \$500 to \$750.
- △ Allows an organization to conduct raffles during bingo occasions with prizes valuing no more than \$250.
- △ Allows an organization to include in an advertisement the amount of a prize offered at a bingo occasion. Also allows TLC to advertise bingo.
- △ Provides that a letter of good standing is adequate evidence of an organization's 501(c) exemption.
- △ Reduces the fee charged for a license amendment from \$25 to \$10. Allows an organization to notify TLC of date or time amendments by telephone or facsimile.
- △ Prohibits no more than one bingo location from existing under a common roof or over a common foundation.
- △ Authorizes TLC to temporarily, rather than summarily, suspend a license.
- △ Increases the percent of people allowed to use card-minding devices during a bingo occasion.
- △ Allows a system service provider to use bar codes on bingo paper as a means of providing accurate tracking, registering, and accounting.
- △ Requires a person designated to conduct and operate bingo games to annually complete eight hours of training as provided by the rules of TLC.
- △ Changes the definition of adjusted gross receipts for purposes of calculating the charitable distribution.

- △ Requires a person who leases premises on which bingo is conducted to be a licensed commercial lessor if the person leases directly to an organization. Requires an organization that holds a commercial license to lease premises on which bingo is conducted to be licensed to conduct bingo at the same premises.
- △ Provides that if a commercial lessor licensee dies, or otherwise becomes incapacitated, that individual's license is part of the individual's estate, and the corresponding licensed organization may continue conducting bingo in accordance with the individual's license. The conduct of bingo may be enjoined by a district court having proper jurisdiction.
  - △ Requires the estate of the deceased or incapacitated individual to notify TLC within a year of the death or incapacitation, at which time transfer procedures would proceed. A transfer of a license requires the prior approval of TLC. Requires TLC to approve the transfer if the person to whom the license will be transferred otherwise meets the requirements for the license.
- △ Prohibits TLC from issuing a commercial lessors license to any person unless TLC receives adequate evidence that any funds used by the person seeking the license to obtain or furnish the premises are the person's own funds or the funds of another person, including certain proceeds of a loan.
- △ Provides that certain foreign corporations, an entity controlled by a foreign corporation, a corporation or other legal entity whose shares are publicly traded or a corporation or other legal entity that is owned or controlled by a corporation whose shares are publicly traded, and non-Texas residents, are not eligible for a commercial license or to renew a commercial license to lease bingo premises to a licensed authorized organization.

## **Deduction of Taxes, Loans, and Child Support from Lottery Winnings - H.B. 2424**

*by Representative Puente*

*Senate Sponsor: Senator Wentworth*

- △ Requires the executive director of the Texas Lottery Commission to deduct court-ordered child support payments or delinquent taxes from a person's lottery winnings, if the winnings are paid in periodic installments and the prize is in excess of \$600. Sets forth other types of obligations which are subject to deduction.

**Inactive Electronic Benefits Transfer Accounts - S.B. 909**

*by Senator Zaffirini*

*House Sponsor: Representative Maxey*

- △ Requires the Department of Human Services (DHS) to close certain electronic benefits transfer accounts for financial assistance that have not been used by an account holder for the previous 12 months.
- △ Requires the Comptroller of Public Accounts to withdraw any unused benefits remaining in the accounts, and disburse them as authorized by federal and state law.

**Electronic Transfer and Data Matching in Benefits Programs - S.B. 910**

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Maxey*

- △ Establishes an interagency task force on electronic benefits transfers (EBT) to assist the Health and Human Services Commission (HHSC) in adding new programs to the state EBT system.
- △ Requires HHSC to develop a data matching project between all agencies using electronic funds transfer and other participating agencies.
- △ Requires the Texas Department of Health (TDH) to implement a data matching project to locate people eligible to participate in the federal special supplemental food program for women, infants, and children (WIC), and to begin the database matching not later than July 1, 1998.
- △ Requires agencies to implement EBT or direct deposit by September 1, 1999 if the task force determines that using these mechanisms is feasible.
- △ Requires the Attorney General, TDH, and the Texas Workforce Commission (TWC) to analyze the cost-effectiveness of using EBT in conjunction with direct deposit to distribute child support payments, WIC benefits, and unemployment benefits.
- △ Authorizes each agency to work with the interagency task force on EBT to determine the cost-effectiveness of using EBT to distribute payments or benefits.
  - △ Requires each agency to complete an analysis not later than December 30, 1997, submit a plan for implementing an EBT system if the mechanism is cost-effective, and execute the plan not later than August 31, 1998.

- △ Requires each agency that provides benefits or recurring payments through EBT to evaluate the cost-effectiveness of using automated teller machines.

## **Use of Benefits Granted to Persons with Dependent Children - H.B. 1439**

*by Representative Hilderbran*  
*Senate Sponsor: Senator Duncan*

- △ Requires financial assistance granted under Aid to Families with Dependent Children to be used only to purchase goods and services that are considered essential and necessary for the welfare of the family. Requires DHS to define, by rule, what constitutes essential and necessary goods and services.
- △ Requires DHS to encourage nonfood retailers to accept payment for essential and necessary goods and services through the state's EBT system.
- △ Allows recipients of financial assistance, authorized to make cash withdrawals using an EBT card, to only be able to do so at the customer service department of the area provider.
- △ Requires DHS to conduct a pilot project with retailers using the EBT system to provide families with essential and necessary goods and services. Requires DHS to work with the Health and Human Services Commission to determine the feasibility of the EBT system, and if found feasible, to promote use of the EBT system statewide.

## **Extending Supported Employment for TANF Recipients - H.B. 1909**

*by Representative Maxey*  
*Senate Sponsor: Senator Truan, et al.*

- △ Authorizes DHS to extend the period of supported employment for families who receive financial assistance under Temporary Assistance to Needy Families (TANF) using fill-the-gap budgeting or other methods whereby DHS disregards the earnings of family members who obtain employment while receiving assistance.
- △ Requires DHS to implement statewide the fill-the-gap budgeting program.

## Eligibility Determination and Service Delivery - H.B. 2777

*by Representative Junell, et al.*

*Senate Sponsor: Senator Ratliff*

- Δ Requires HHSC in consultation with the Legislative Budget Board and subject to approval of the Governor, to develop and implement a plan to integrate eligibility determination and service delivery by health and human services agencies, the Texas Workforce Commission (TWC), and other agencies.
- Δ Authorizes HHSC, in developing and implementing the plan, to contract for appropriate professional and technical assistance. Requires HHSC to also consult with agencies whose programs are included in the plan.

## **Nursing Facility Administrator Regulation - S.B. 84**

*by Senator Moncrief, et al.*

*House Sponsors: Representative Junell, et al.*

- △ Abolishes the Texas Board of Nursing Facility Administrators and transfers all authority, duties, obligations, and responsibilities to the Texas Department of Human Services (DHS).
- △ Provides that if the federal government issues a ruling that the system established under this bill does not comply with federal regulations, the Texas Board of Nursing Facility Administrators is established within the Texas Department of Human Services.

## **Children/Long-Term Care Institutions - S.B. 118**

*by Senator Zaffirini*

*House Sponsor: Representative Naishtat*

- △ Requires certain agencies or institutions to notify a local community resource coordination group or other entities when a child with a developmental disability is initially placed in an institution.
- △ Allows each entity receiving notice of the child's placement to contact the person making the placement to ensure that the child's family members are aware of alternative services, available placement options, and opportunities for permanency planning.
- △ Requires the Health and Human Services Commission (HHSC) and each appropriate health and human services agency to develop procedures to ensure that permanency planning is provided for each child residing in an institution on a temporary or long-term basis, or for whom institutional care is sought.

## **Nursing Home Regulation - S.B. 190**

*by Senator Zaffirini, et al.*

*House Sponsors: Representatives Naishtat and Hilderbran*

### *Quality of Care*

- △ Establishes minimum acceptable levels of care for nursing homes and similar institutions. States that a violation of a minimum acceptable level of care is forbidden by law.

- △ Requires each institution, at a minimum, to provide quality care in accordance with rules and standards, which are at least as stringent as standards imposed by federal law.
- △ Requires regulation of the construction, maintenance, and operation of institutions in a manner that protects the residents of the institutions.
- △ Requires DHS and the Office of the Attorney General (OAG) to prepare an annual report on their responsibilities, as prescribed by the Legislative Budget Board and State Auditor.
- △ Requires each institution to have a licensed nursing facility administrator and establishes the administrator's responsibilities
- △ Requires DHS to deposit collected fees or penalties in the general revenue fund, and allows for their use only for nursing home administration and enforcement. Prohibits collection of investigation and attorney's fees unless penalties are also collected.
- △ Establishes license renewal application requirements for institutions, including information required to substantiate five years of satisfactory compliance history.
- △ Increases the license fees for institutions. Authorizes DHS board to establish a fee for background examinations.
- △ Requires each institution to post, in a public area, notice that various reports on its performance are available, as well as notice that DHS and Texas Board of Nursing Facility Administrators can provide other reports.
- △ Requires institutions to have a medical director and a director of nursing services and adds responsibilities of an attending physician (allows responsibilities to be performed by physician assistant or nurse practitioner). Requires institutions to use appropriate pediatric consultative services and nursing services for a resident younger than 18 years of age.
- △ Establishes required nursing services, and sets required medical and dental examinations. Establishes quality of life and quality of care standards, rights of residents, complaint inspections, medication administration, pharmacist services, legislative oversight by the long-term care legislative oversight committee, and rights of employees.
- △ Prohibits a person convicted of certain offenses from being employed in a position that involves direct contact with a consumer in a facility.

- Δ Prohibits a nursing facility from admitting a resident whose needs cannot be met through service from the facility's staff or in cooperation with community resources or other providers under contract. Requires the nursing facility to provide a written statement to DHS of the reasons for the refusal, or be subject to monetary penalties.
- Δ Requires DHS to establish procedures for controlling the number of Medicaid beds, decertifying unused Medicaid beds, and reallocating them to other nursing facilities.
- Δ Prohibits use of state funds to pay the facility, if federal matching funds cannot be used.

### *Enforcement and Penalties*

- Δ Requires DHS to conduct two unannounced inspections of each facility each license period.
  - Δ Increases the penalty for disclosing an unannounced visit of a nursing home from a Class B misdemeanor to a third degree felony.
- Δ Authorizes DHS, after providing notice and opportunity for a hearing, to exclude a person from eligibility for a license if the person has repeatedly or substantially failed to comply with rules and standards. Requires exclusion for a period of between two and 10 years.
- Δ Authorizes DHS to seek a temporary restraining order for a violation or threatened violation if DHS reasonably believes that it creates an immediate threat to the health and safety of a resident. Authorizes DHS to seek an injunction to restrain a person from a violation or threatened violation if it reasonably believes that the violation or threatened violation creates a threat to a resident's health and safety.
- Δ Increases civil penalties for a violation if DHS determines the violation threatens the health and safety of a resident. Authorizes any party to a suit to request a jury. Authorizes the state to seek satisfaction from any owner, controlling person, or affiliate if a person who is liable fails to pay any amount. Provides that penalties are not an allowable cost for reimbursement by Medicaid.
- Δ Authorizes DHS to assess an administrative penalties against persons who violate requirements of nursing home regulation or who impede an investigation of a violation.

- △ Prohibits DHS from assessing an administrative penalty if the institution corrects certain violations within 45 days.
- △ Prohibits DHS from assessing more than one monetary penalty for a violation arising out the same act or failure to act, except in specific situations. Authorizes the commissioner to immediately suspend admissions in certain situations and requires institutions to post notice of suspension.
- △ Requires the OAG to work with DHS on all legal proceedings, and requires the commissioner to approve all settlements.
- △ Establishes a cause of action if an employer retaliates against a person for reporting abuse or neglect, or cooperating in an investigation. Also prohibits an institution from retaliating or discriminating against a resident for making a complaint or filing a grievance.
- △ Prohibits an institution or DHS from electing arbitration in case of emergency or a closing order.
- △ Requires DHS to terminate a facility's provider agreement if DHS has imposed three Category 2 or 3 remedies on the facility within a 24-month period.

## **Convictions Which Bar Employment at Nursing Homes - S.B. 262**

*by Senator Sibley*

*House Sponsors: Representatives Counts and Naishtat*

- △ Adds the following convictions to the list of convictions barring employment from a position involving direct contact with a consumer in a nursing home or other related facility: sexual assault; aggravated assault; injury to a child, elderly individual, or disabled individual; abandoning or endangering a child; or aiding a suicide.

## **Consumers Guide for Senior Citizens - S.B. 273**

*by Senator Zaffirino et al.*

*House Sponsor: Representative Cuellar, et al.*

- △ Requires the comptroller to develop and update annually a consumers guide for senior citizens designed to assist senior citizens and their families in making informed choices regarding available senior services. Also makes the guide available to users on the Internet.

- △ Creates an interagency work group to assist the comptroller in developing the consumers guide. Requires the work group to consult with consumer and provider groups involved in the delivery of long-term care services.
- △ Requires the comptroller to make the guide available to the public through the Internet, and to local and state agencies in electronic format.
- △ Requires the Texas Department on Aging to lead a group of state agencies formed to identify and address in cooperative efforts all major public policy issues relating to the aging of Texas residents.
- △ Requires the comptroller to provide an opportunity to consumer and provider groups involved in the delivery of long-term care services to review and comment on the guide.

### **Studying Federal Waivers for Long Term Care Medicaid Programs - H.B. 460**

*by Representative Maxey, et al.  
Senate Sponsor: Senator Moncrief*

- △ Requires the commissioner of health and human services to report to the legislature on the feasibility and advisability of replacing waivers for administering federally funded Medicaid programs supporting long-term care services with a single waiver in order to minimize administrative duplication, maximize services provided, and provide flexibility to Texas.
- △ Requires the commissioner to consider waivers with respect to specific programs in multiple agencies.

### **Increasing Medicaid Beds for Nursing Homes - H.B. 606**

*by Representative Zbranek, et al.  
Senate Sponsor: Senator Moncrief*

- △ Authorizes the commissioners court of a county in which not more than two nursing facilities are Medicaid certified, to request that DHS contract for up to 120 additional Medicaid beds per year, regardless of current Medicaid occupancy rates in the county. Prohibits DHS from contracting more than 500 additional nursing home beds statewide in a calendar year.
- △ Requires the commissioners court requesting additional Medicaid beds to publish notice in the Texas Register and a local newspaper. Requires the notice to include certain information.

## **Needs Assessment for Long-Term Care Services - H.B. 663**

*by Representative Maxey, et al.*

*Senate Sponsor: Senator Moncrief*

- △ Requires HHSC, subject to adequate funding from solicitation, to develop a pilot program to determine the feasibility of a consistent functional needs assessment process to be used by long-term care services programs.
- △ Requires HHSC to consult with advocacy groups, providers, representatives of state agencies, and other appropriate individuals and entities in developing the consistent functional needs assessment process.
- △ Requires HHSC to report results of the pilot program to the legislature.

## **Pilot Program for Treating Alzheimer's Patients - H.B. 2509**

*by Representative Hilderbran*

*Senate Sponsor: Senator Zaffirini*

- △ Requires DHS, in cooperation with an advisory committee, to develop and implement a pilot program for the treatment of individuals diagnosed with Alzheimer's disease.
- △ Requires DHS to appoint an advisory committee to assist in developing and implementing the pilot program.
- △ Provides that the pilot program may not make eligible for medical assistance any individual who would not otherwise be eligible.
- △ Authorizes DHS to seek and accept a gift, grant, or donation from any person for purposes of developing and implementing the pilot program provided that the person does not have a contested case pending before any agency participating in the pilot program.

## **Special Licenses for Personal Care Facilities - H.B. 2510**

*by Representative Hilderbran*

*Senate Sponsor: Senator Zaffirini*

- △ Requires the Board of Human Services (board) to establish a classification and license for a facility that advertises, markets, or otherwise promotes that the facility provides personal care services to residents who have Alzheimer's disease or related disorders.
- △ Requires the board to adopt minimum standards for a defined personal care facility.

## Regulating Personal Care Facilities - H.B. 2601

*by Representatives Wohlgemuth and Hilderbran*

*Senate Sponsor: Senator Carona*

- △ Requires all fees or penalties collected from the regulation of personal care facilities to be deposited in the general revenue fund.
- △ Prohibits assessing or collecting investigation fees or attorney's fees from a personal care facility unless DHS or other state agency assesses and collects a penalty from the facility.
- △ Provides that state standards must require a personal care facility to use its license number in all advertising, solicitation, or promotional materials
- △ Authorizes DHS to petition a district court for a temporary restraining order if a facility is operating without a license.
- △ Adds civil penalties for a person who is operating a personal care facility without a license, or who has been determined to be operating a facility without a license and violates or fails to comply with other provisions.
- △ Requires the Texas Board of Human Services, the Department of Protective and Regulatory Services, and the attorney general to adopt a memorandum of understanding to improve agency cooperation on investigating complaints, enforcement actions, and correcting violations in substandard or unlicensed personal care facilities.

## Rights of the Elderly - H.B. 3100

*by Representatives Jesse Jones and Chavez*

*Senate Sponsor: Senator Truan*

- △ Recommends changes that would recognize the right of the elderly to a greater amount of self-determination.
- △ Prohibits a person providing services to the elderly from denying rights of the elderly.
- △ Provides that an elderly individual, as defined by the Human Resources Code, is not affected by the change made in this legislation.

## Adoption - S.B. 34

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Elvira Reyna, et al.*

- △ Limits collateral and direct attacks on orders terminating parental rights and on adoption orders; promotes judicial efficiency in termination and adoption cases; and requires the DPRS to develop a permanency plan for each child under its conservatorship.

### *Attacks on termination and adoption orders*

- △ Limits the time period for attacking the validity of an adoption order to six months after the date the order was signed.
- △ Limits the time period for attacking the validity of an order terminating parental rights to six months after the date the order was signed, except in cases of fraud, duress, or coercion.

### *Judicial efficiency*

- △ Allows a presiding judge to appoint a master for a court handling child protection cases if the court needs assistance in order to process the cases within a reasonable period of time.
- △ Requires the court to inform each parent, in open court, that his or her parental rights and duties may be subject to restriction or termination.
- △ Sets forth the issues the court is required to hear during each permanency hearing, such as an evaluation of DPRS' effort to place the child in a home; an evaluation of the parties' compliance with temporary orders and the service plan; and the date for dismissal of the suit under this chapter.
- △ Requires a child to attend each permanency hearing unless excused by the court.
- △ Limits the time for completing a suit terminating parental rights to one year with a possible 180-day extension.
- △ Notwithstanding the time limits, allows DPRS to retain jurisdiction over a child if it is in the best interest of the child and requires the case to be reviewed every six months.
- △ Throughout the suit, requires DPRS to keep interested parties informed of hearings and case status, including the child's attorney ad litem and volunteer advocate.

## *DPRS procedures*

- Δ Requires DPRS to begin locating qualified adoptive parents when DPRS decides to seek termination of parental rights.
- Δ Allows DPRS to assume the care, control, and custody of an abandoned child. Eliminates a service plan requirement for abandoned children, which should expedite the adoption process for abandoned children.
- Δ Requires DPRS to develop a permanency plan for each child under its conservatorship.
- Δ Requires DPRS to maintain, in a central database, information concerning children in DPRS' custody and report once a year on the status of children in its custody.
  - Δ Requires the annual report to analyze the length of time each child has been in substitute care and the barriers to adoption or returning the child to the child's parents.

## **Restricting Children's Access to Tobacco - S.B. 55**

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Berlanga, et al.*

## *Sale of Tobacco Products*

- Δ Makes it a Class C misdemeanor for a person, with criminal negligence to sell, give, or cause to be sold or given a cigarette or tobacco product to someone who is younger than 18 years of age.
  - Δ Makes an employee criminally responsible for the sale of cigarettes or tobacco products in a store.
- Δ Pursuant to federal regulations, prohibits selling or giving cigarettes or tobacco products to someone who is younger than 27 years of age, unless the person presents an apparently valid proof of identification.
- Δ Requires a sign containing a specific warning statement about minors purchasing tobacco products to be posted in a conspicuous location.

- △ Requires each permit holder (permits as provided under the cigarette tax portion of the Tax Code) to notify employees engaged in the retail sale of tobacco products about certain provisions of state law affecting the sale or distribution of cigarettes or tobacco products. Requires the employee to sign a form stating that the law has been fully explained, that the individual understands the law, and that the individual, as a condition of employment, agrees to comply with the law.
  - △ Makes it a Class C misdemeanor if a permit holder fails, on demand of an officer, to provide the notice.
- △ Prohibits the sale of cigarettes or tobacco products in a manner that permits a customer direct access to the products. Prohibits installing or maintaining a vending machine containing cigarettes or tobacco products.
  - △ Excludes a facility or business that is not open to persons younger than 18 years of age at any time, or that part of a facility or business that is a humidor or other enclosure designed to store cigars in a climate-controlled environment from these prohibitions.
  - △ Authorizes enforcement actions and certain property seizure or forfeiture for a violation of this section, and makes it a Class C misdemeanor for a violation of these prohibitions.
- △ Makes it a Class C misdemeanor to distribute a free sample of a cigarette or tobacco product to persons younger than 18 years of age.
- △ Authorizes the comptroller of public accounts, in partnership with local law enforcement officials, to enforce these provisions, and ensure the state's compliance with federal law and regulations.
- △ Provides that this subchapter does not preempt local regulation of selling or distributing cigarettes or tobacco products, if they are compatible with and equal to or more stringent than state requirements, or relate to an issue that is not specifically addressed.

### *Advertising*

- △ Bans outdoor signs containing an advertisement for cigarettes or tobacco products within 1,000 feet of a church or school, except for certain exceptions.

- △ Provides that the purchaser of advertising is liable for a fee of 10 percent of the gross sales price of any outdoor advertising for cigarettes and tobacco products in Texas.
  - △ Requires a fee to be deposited into a special account and restricts appropriations to certain administrative, enforcement, and education purposes.
  - △ Authorizes the comptroller to impose an administrative penalty, not to exceed \$5,000, against a purchaser of advertising who does not comply with the advertising fee.

### *Possession of a Tobacco Product*

- △ Establishes an offense with certain exceptions, for an individual who is younger than 18 years of age, to possess, purchase, consume, or accept a cigarette or tobacco product; or falsely represent himself or herself to be 18 years of age or older by displaying false or fraudulent proof of age.
  - △ Provides sentencing options for first and subsequent offenses by a minor including requiring the defendant to attend a tobacco awareness program, and perform community service.

### *Public Awareness Campaign*

- △ Requires the Commissioner of Health (commissioner) to develop and implement a public awareness campaign designed to reduce tobacco use by minors. Authorizes competitive contracting to develop and implement the public awareness campaign.
- △ Requires the commissioner to develop and implement a grant program to support youth groups that include components related to reducing tobacco use.

### *Retail and Distributor Permits*

- △ Increases the application fees for permits related to distribution and sale of cigarette or tobacco products.
- △ Provides that a retailer is subject to disciplinary action if an employee commits an offense, and the retailer, with criminal negligence, failed to prevent the offense through adequate supervision and training.
- △ Authorizes the comptroller to suspend or revoke a permit or assess an administrative fine for certain violations.

- △ Establishes an offense for selling cigarettes in quantities less than an individual package containing at least 20 cigarettes.
- △ Requires the comptroller to request an exemption from the federal Food and Drug Administration, if necessary, to implement changes in law.
- △ Provides that the implementation and execution of programs established by the change in law are contingent on the availability of funds for those programs.

## **Coverage for Childhood Immunizations - S.B. 172**

*by Senator Zaffirini, et al.*

*House Sponsors: Representatives Stiles and Berlanga*

- △ Requires certain health benefit plans to cover childhood immunizations without any deductible, copayment, or coinsurance requirement.

## **Adoption - S.B. 181**

*by Senator Shapiro*

*House Sponsor: Representative Goodman*

- △ Requires the DPRS to develop a permanency plan for each child under its conservatorship; expedites the adoption process; and promotes judicial efficiency in termination and adoption cases.
- △ Requires the court to inform each parent, in open court, that his or her parental rights and duties may be subject to restriction or termination.
- △ Requires DPRS to develop a permanency plan for each child under its conservatorship.
- △ Requires a child to attend each permanency hearing unless excused by the court.
- △ Sets a time limit on the completion of a suit to terminate parental rights. Requires the court to dismiss a suit terminating parental rights the Monday after the first anniversary DPRS was given conservatorship of the child, unless an extension is granted. Limits an extension to 180 days.
- △ Notwithstanding the time limits, allows DPRS to retain jurisdiction over the child in the best interest of a child. Allows a final order naming DPRS managing conservator without terminating parental rights. Requires the case to be reviewed every six months.
- △ Requires DPRS to keep interested parties informed of hearings and case status, including the child's attorney ad litem and volunteer advocate.

## Council on Early Childhood Intervention/Sunset - S.B. 305

*by Senator Zaffirini*

*House Sponsor: Representative Berlanga*

- △ Brings existing state statutes into compliance with federal mandates so the Interagency Council on Early Childhood Intervention (council) will remain eligible to receive federal funds for early intervention to children three years of age and younger with developmental delays.
  - △ Provides that the council is the lead agency designated by the governor under the Americans with Disabilities Act for the administration, supervision, and monitoring of a statewide comprehensive system of early intervention services.
  - △ Requires certain state agencies to appoint non-voting representatives to the Board of Interagency Council on Early Childhood Intervention and requires the representatives to have authority to make decisions and commit resources, subject to agency approval.
- △ Requires the council to develop and implement a strategic plan for a statewide system of early childhood intervention services.

## Guardian Ad Litem - S.B. 349

*by Senator Shapiro*

*House Sponsor: Representative Goodman*

- △ Requires the court to appoint a guardian ad litem to represent a child in cases in which the DPRS is seeking to be appointed managing conservator or is seeking termination of parental rights.
- △ Delineates the rights, powers, and duties of the guardian ad litem, and gives the guardian ad litem immunity from civil damages arising from a recommendation or opinion, unless it is willfully wrongful; given with conscious indifference or reckless disregard for the safety of another; given in bad faith or with malice; or grossly negligent.
- △ Provides that the appointment of an attorney ad litem is not required in a suit in which the dissolution of a marriage is uncontested, or the issues of possession of and access to the child is agreed to by both parents.
- △ Requires the attorney general, with the assistance of the statewide volunteer advocate program, to adopt standards for local volunteer advocate programs.

**Adoption Incentives - S.B. 670**

*by Senator Shapiro*

*House Sponsor: Representative Staples*

- △ Provides monetary incentives, subject to the availability of funds, for licensed child-placing agencies, to place children who are in the care of DPRS in adoptive homes.
- △ Requires the incentive not to exceed 25 percent of the amount DPRS would have spent to provide one year of foster care for the child.

**Texas Healthy Kids Corporation - H.B. 3**

*by Representative Berlanga, et al.*

*Senate Sponsor: Senator Sibley*

- △ Creates the Texas Healthy Kids Corporation (corporation) as a nonprofit corporation to provide health benefits for primary and preventive health care for certain Texas children.
- △ Establishes the Texas Health Kids Fund (fund) as a fund outside the state treasury held by the Texas Treasury Safekeeping Trust Company and composed of money appropriated to the fund and of money appropriated to or deposited in the Premium Stabilization Revolving Account.
- △ Requires the health and human services agencies, the Office of the Attorney General (OAG), the Texas Department of Insurance, the board of directors of the Texas Health Insurance Risk Pool (risk pool), and the Comptroller of Public Accounts to cooperate with the corporation to assist the corporation in performing its duties.
  - △ Requires the corporation to work with the OAG, the Texas Department of Human Services, and the Texas Department of Health (TDH) to facilitate the electronic exchange of information among the corporation and the appropriate agencies.
- △ Provides that the corporation is not an insurer and may not self-insure or self-fund the coverage provided through the program.
- △ Sets forth provisions regarding the coverage providers.

- Δ Requires the corporation to:
  - Δ establish a health benefit program (program) to provide, through eligible coverage providers, health benefits for children who are not covered by insurance or another type of health benefit plan; are not covered by insurance or another type of health benefit plan for a specified medical condition; or are not covered by insurance or another type of health benefit plan that provides benefits for primary and preventative care;
  - Δ develop the design and benefits structure of the program;
  - Δ determine eligibility criteria that children and their family members must meet;
  - Δ develop participation criteria for authorized insurers, health service organizations, health maintenance organizations, and other entities eligible to provide coverage;
  - Δ develop and implement a public awareness program;
  - Δ establish participation objectives for the program;
  - Δ negotiate premiums for coverage; and
  - Δ contract for the provision of health benefit coverage.
- Δ Authorizes TDH to use appropriated funds to purchase coverage under a health benefit plan provided through the program for eligible children if:
  - Δ current health care benefits are received under the chronically ill and disabled children's program or other state or federally funded program, other than Medicaid;
  - Δ the program is more cost-effective; and
  - Δ the children lose no benefits.
- Δ Provides that services to children under a federally or state-funded program may not be reduced or eliminated because of the program.
- Δ Requires the corporation to make the applicant's family aware of the availability of coverage from the risk pool.

- △ Requires the court to order a person obligated to pay child support:
  - △ to apply and pay for coverage through the corporation, if health insurance for the child is not available by some other means; or
  - △ to pay for coverage, if health insurance for the child is not available by some other means, including through the corporation.
- △ Requires the court to consider \$38 per month per child as a reasonable amount for medical support.
- △ Authorizes a nonprofit hospital to provide charity care and community benefits through a donation of money to the corporation, provided that:
  - △ the money is used for the purpose of benefiting low income families in the donating entity's area; and
  - △ the donation does not satisfy more than 10 percent of the charity care required of the hospital.
- △ Sets forth the definition and scope of the Health Benefit Plans for Children under the Insurance Code.

### **Permanency Planning for Children in Substitute Care - H.B. 885**

*by Representative Maxey, et al.  
Senate Sponsor: Senator Zaffirini*

- △ Requires the Health and Human Services Commission (HHSC), and each appropriate health and human services agency, to develop procedures to ensure that a permanency plan is developed for each child residing in an institution in this state on a temporary or long-term basis or for whom institutional care is sought.
  - △ Requires HHSC to develop four pilot sites to implement permanency plans for all children either currently in institutional care on a temporary or long-term basis, or at-risk of being placed in institutional care.
- △ States that it is the policy of the state to strive to ensure that the basic needs for safety, security, and stability are met for each child in Texas.
- △ Sets forth reporting and program requirements for the permanency planning projects.

## Paternity Registry and Adoption - H.B. 1091

*by Representative Goodman, et al.*

*Senate Sponsor: Senator Zaffirini*

### *Paternity Registry*

- △ Requires the Bureau of Vital Statistics to establish a paternity registry.
  - △ States that the registry is established to protect the parental rights of fathers who assume responsibility for children they may have fathered, and to expedite adoptions of children whose biological fathers are unwilling to assume parental responsibilities by registering with the registry or otherwise acknowledging paternity.
  - △ States that the paternity registry does not relieve a mother of the obligation to identify the known father of the child.
  - △ Delineates guidelines for registration with the paternity registry and notice of intent to claim or deny paternity.
  - △ Requires the Bureau of Vital Statistics to furnish a certificate attesting to the results of a search of the registry regarding a notice of intent to claim paternity to a person or entity with a legitimate interest.
  - △ Requires the court to remove the registrant's name if the court determines that the registrant is not the father.
  - △ Prohibits a fee from being charged to file a notice of intent to claim or deny paternity.

### *Adoption*

- △ Authorizes the rights of an alleged biological father to be terminated if due diligent attempts to locate him have been unsuccessful.
- △ Authorizes the court to terminate a parent-child relationship if the court finds that the child was conceived as a result of sexual assault, aggravated sexual assault, or incest, and the termination is in the best interest of the child.
- △ Requires the appointment of an attorney ad litem for an indigent parent, a parent served by citation, or an alleged father cannot be located.
- △ Updates provisions regarding a revocable or irrevocable affidavit for voluntary relinquishment of parental rights.

- △ Prohibits a biological or adoptive grandparent from requesting possession of or access to a grandchild under certain conditions.
- △ Authorizes the mother of a newborn to release the child to a licensed child-placing agency, DPRS, or another designated person.
  - △ Establishes the rights and duties of an alleged father and of the paternity registry under these circumstances.
- △ Requires the court to order an adoptive home screening to evaluate each party who requests an adoption.
- △ Authorizes a child to be adopted if the child is at least two years old, the parent-child relationship has been terminated with respect to one parent, the person seeking the adoption is the child's former stepparent and meets certain time criteria.
- △ Requires the court to grant a preferential setting motion for a final hearing on adoption over all other civil cases not given preference by other law, if the social study has been filed and the criminal history for a person seeking adoption has been obtained.
- △ Transfers the administration of the central voluntary adoption registry from DPRS to the Bureau of Vital Statistics.
- △ Requires a couple who has adopted a child to consist of a male and a female. States that this requirement does not prohibit single persons, male or female, from adopting a child.
- △ Makes advertising in the public media that a person will place a child for adoption or will provide or obtain a child for adoption a Class A misdemeanor for the first offense and a third degree felony for subsequent offenses.

### **Protective Orders for Children - H.B. 1336**

*by Representative Wise*  
*Senate Sponsor: Senator Zaffirini*

- △ Includes a child who has been a victim of neglect among the children who can be removed from a home by a governmental entity, under certain circumstances.
- △ Requires the court to render an emergency temporary protective order for a child whom the court finds to have been abused or neglected, and in need of protection from family violence.

- △ Requires the court, in a full adversary hearing on the welfare of the child, to render a protective order for a child whom the court finds to have been abused or neglected and in need of protection from family violence.
- △ Gives the court discretion on whether to grant a legislative continuance in a case involving an application for a protective order authorized by the Family Code.

## **DPRS - H.B. 1826**

*by Representative Goodman, et al.*

*Senate Sponsor: Senator Harris*

### *Suits affecting the parent-child relationship*

- △ Increases the penalty for knowingly or intentionally making a false child abuse report or one lacking factual foundation.
- △ Adds a foster parent of a child placed by DPRS in the foster parent's home for not less than 18 months to the list of persons allowed to file a suit affecting the parent-child relationship.
- △ Authorizes the hearsay statement of a child abuse victim who is 12 years or younger to be admissible as evidence if the court finds sufficient indications of the statement's reliability, and either written or oral testimony is given or is available at the court proceeding.
- △ Authorizes the court to render a temporary restraining order without notice and an adversary hearing, if the order is an emergency order sought by a governmental entity with an interest in the child.
- △ Expands the grounds upon which parental rights may be terminated to include the following.
  - △ A case in which the parent has been convicted or has been placed on community supervision for being criminally responsible for the death or serious injury to a child under the offenses of, or conduct that constitutes, murder, capital murder, indecency with a child, injury to a child, abandoning or endangering a child, prohibited sexual conduct, sexual performance by a child, or possession or promotion of child pornography;

- Δ A case in which the parent has had the parent-child relationship terminated with respect to another child based on a finding under Texas law or substantially equivalent law in other states, that the parent's conduct knowingly placed or allowed the child to remain in conditions which endanger the physical or emotional well-being of the child, or knowingly placed or allowed the child to be with a person who endangered the child;
- Δ Constructively abandoning a child in DPRS conservatorship for not less than six months, rather than one year;
- Δ Failure, for not less than nine months, to comply with the provisions of a court order that specifically established the actions necessary for reunification of the child with the parent;
- Δ Using a controlled substance in a manner that endangers the health and safety of the child, and failing to complete a court-ordered drug treatment program; or repeatedly using a controlled substance, after treatment, in a manner that endangers the child;
- Δ Knowingly engaging in criminal conduct that results in the parent's imprisonment and inability to care for the child for not less than two years from the filing date of the termination suit; and
- Δ Causing the child to be born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription.

## *Child Protective Services*

- Δ Authorizes photographs to be taken in an examination of a child in cases of suspected abuse or neglect.
- Δ Adds audiotapes and videotapes to the list of items held confidential in an abuse and neglect investigation. Authorizes the court to disclose confidential items under certain circumstances.
- Δ Authorizes an interview and examination with a child to include transporting the child.
- Δ Requires an interview with a child alleged to be a victim of physical abuse or sexual abuse to be audiotaped or videotaped, unless good cause exists otherwise.

- △ Requires the court to order removal of the alleged perpetrator of abuse from the home, if the child is not in danger of abuse from the other parent or other adult in the home and that:
  - △ the presence of the alleged perpetrator in the home constitutes a continuing danger to the physical health or safety of the child; or
  - △ the child has been the victim of sexual abuse and there is a substantial risk of continued abuse.
- △ Expands the grounds upon which an authorized person may take possession of a child without a court order to include corroborated evidence that the possessor of the child is currently using a controlled substance and the use constitutes an immediate danger to the physical health or safety of the child.

### *Foster care, children's advocacy centers, and child-placing agencies*

- △ Updates provisions regarding the use of funds for children in foster care, and foster care payments.
- △ Authorizes DPRS to pay for foster care services for a child in its care up to the age of 22, if the child is regularly attending high school, an institution of higher education, or a vocational or technical program.
- △ Prohibits DPRS from providing early youth intervention services to a child who has been found to have engaged in delinquent conduct.
- △ Updates provisions regarding children's advocacy centers and child placing agencies.

### **Child Support Statement on a Marriage License - H.B. 2069**

*by Representative Denny  
Senate Sponsor: Senator Ellis*

- △ Prohibits the county clerk from refusing to issue a marriage license because either party has indicated on the application form that he or she is delinquent in the court-ordered child support.
- △ Requires a marriage license application form to include information on whether either party is presently delinquent in the payment of court-ordered child support.

**Medically Fragile Children Pilot Program - H.B. 2984**

*by Representative Hunter, et al.*  
*Senate Sponsor: Senator Zaffirini*

- Δ States that it is the policy of this state to develop and maintain a cost-efficient, quality system to provide care, continuity, maintenance, rehabilitation, and education for chronically ill and disabled children and their families.
- Δ Requires the Texas Board of Health (board) to establish a pilot program to study and research the unique health care, maintenance, education, social, and related needs of medically fragile children and their families in this state. Sets forth criteria for the pilot program. Requires the board to monitor and review the pilot program and deliver a report to the Sunset Advisory Commission.
- Δ Requires the board to select a nonprofit private entity (entity) to operate the pilot program. Sets for criteria for selecting the entity. Establishes a five-year time period for the selected entity to operate the pilot program.
- Δ Allows the board to provide the entity with a grant in an amount not to exceed \$400,000 during each fiscal year to cover program costs.

**Creation of an Immunization Registry - H.B. 3054**

*by Representative Berlanga*  
*Senate Sponsor: Senator Zaffirini*

- Δ Requires the TDH to establish and maintain a childhood immunization registry (registry) and requires TDH to adopt guidelines for obtaining information and protecting its confidentiality.
- Δ Requires an insurance company, a health maintenance organization, or another organization that pays or reimburses a claim for an immunization of a person young than 18 years of age to provide an immunization history to TDH. Requires a health care provider who administers an immunization to provide an immunization history unless it has already been submitted.
- Δ Authorizes TDH to use the registry to provide notices for a child who is due or overdue for a particular type of immunization according to TDH's immunization schedule. Requires TDH to consult with health care providers to determine the most efficient and cost-effective manner of using the registry to provide notice.
- Δ Establishes penalties for disclosing registry information.

**Investigation of a Report of Child Abuse - H.B. 3345**

*by Representative Smith*  
*Senate Sponsor: Senator Harris*

- Δ Requires the DPRS to investigate a report of child abuse without regard to any pending suit affecting the parent-child relationship.

**Medicaid Disproportionate Share Program - S.B. 403**

*by Senators Zaffirini and Moncrief*  
*House Sponsor: Representative Berlanga*

- △ Repeals the funding of the Medicaid disproportionate share program through an assessment imposed against certain hospitals and hospital districts.

**Providing Information and Training on Medicaid  
Managed Care - S.B. 1163**

*by Senator Zaffirini, et al.*  
*House Sponsor: Representative Berlanga*

- △ Requires the Texas Department of Health (TDH), subject to the availability of funds, to develop a plan to provide information and training about the requirements of a managed care plan to Medicaid recipients, providers, local health and human services agencies, and others in each service area in which TDH plans to provide medical assistance through a managed care plan. Outlines requirements of the plan.
- △ Requires TDH to submit a semiannual report on the effectiveness of the plan to the lieutenant governor, the speaker of the house of representatives, the Senate Health and Human Services Committee, and the House Public Health Committee.

**Ensuring Compliance with Medicaid Managed Care  
Contracts - S.B. 1164**

*by Senator Zaffirini, et al.*  
*House Sponsor: Representative Berlanga*

- △ Requires TDH to review each organization contracted to provide Medicaid through a managed care plan to determine whether the organization is prepared to meet contractual obligations.
- △ Requires the Health and Human Services Commission (HHSC) to evaluate the STAR + PLUS Medicaid managed care long-term care pilot project as part of its routine monitoring responsibilities. Requires the commission to submit a report on the evaluation.
- △ Requires each managed care organization with which TDH contracts to submit an implementation plan containing specific elements. Requires status reports on the implementation plan.

- Δ Requires TDH to conduct a compliance and readiness review of each managed care organization that contracts with the state.
- Δ Authorizes TDH to delay enrollment of Medicaid recipients in a managed care plan if the review reveals that the managed care organization is not prepared to meet contractual obligations.

## Medicaid Services for Children with Special Health Care Needs - S.B. 1165

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Berlanga*

- Δ Requires HHSC, in cooperation with TDH, to take certain actions with regard to Medicaid health care services provided to children with special health care needs. The actions include:
  - Δ monitoring and assessing Medicaid health care services provided to children with special health care needs;
  - Δ adopting specific quality of care standards applicable to health care services provided under managed care plans; and
  - Δ undertaking initiatives to develop, test, and implement optimal methods for delivery of appropriate, comprehensive, and cost-effective health care services under managed care plans.
- Δ Prohibits HHSC from requiring a child with special health care needs, who receives supplemental security income from the federal government, to enroll in a managed care plan to receive health care services provided under the state Medicaid program.
- Δ Authorizes HHSC to require children with special health care needs to enroll in a Medicaid managed care plan if it is determined that enrollment will improve the availability of appropriate and comprehensive health care services, and HHSC establishes procedures for exempting a child from required enrollment for good cause.
- Δ Requires HHSC to prescribe, by rule, qualifications for classifying a child as a "child with special health care needs," including qualifications for children with severe disabilities, medically complex or fragile conditions, and rare, complex, or chronic health care conditions likely to last at least one year and result in limitations of function and activities in comparison with healthy children of the same age.

**State Medicaid Health Care Delivery System - S.B. 1574**

*by Senator Madla, et al.*

*House Sponsor: Representative Van de Putte*

- Δ Clarifies that certain health care providers in an area must be included in the Medicaid managed care provider network of the Health and Human Services Commission, each intergovernmental initiative, and each managed care organization for a minimum three-year period.
  - Δ Requires these health care providers to have provided a significant level of care to Medicaid and charity patients during the 12 months preceding the date of implementation.

**Administering and Allocating Medicaid for Graduate Medical Education - H.B. 1511**

*by Representative Berlanga, et al.*

*Senate Sponsor: Senator Zaffirini*

- Δ Requires TDH to establish procedures and formulas for allocating federal Medicaid funds to support graduate medical education.
  - Δ Outlines how TDH is to allocate the funds. Requires TDH to consult with the Texas Higher Education Coordinating Board (THECB) before adopting or revising a formula and specifies the formula for teaching hospitals.
- Δ Requires THECB to administer a program to support graduate medical education programs consistent with Texas' needs for graduate medical education and training of resident physicians in accredited residency programs in appropriate fields and specialties, including primary care specialties.
- Δ Authorizes THECB to make grants or formula distributions to support appropriate graduate medical education programs and activities for which adequate funds are not otherwise available, or to foster new or expanded graduate medical education programs or activities that will address the state's needs for graduate medical education.
- Δ Requires THECB to appoint an advisory committee for developing and administering the program, and outlines the membership of the advisory committee.

**Reimbursement to Telemedicine Providers - H.B. 2017**

*by Representative Maxey, et al.*

*Senate Sponsor: Senator Shapleigh*

- Δ Requires HHSC to develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine.
- Δ Requires HHSC to encourage teaching hospitals, small rural hospitals, federally qualified health centers, and state-owned health care facilities to participate as telemedicine service providers in the health care delivery system.
- Δ Requires the Texas Tech University Health Sciences Center to contact the Health Care Financing Administration regarding approval of the federal waiver to allow reimbursement for telemedicine services provided under the Medicare program.

**Administration and Operation of the Medicaid Managed Care Program - H.B. 2913**

*by Representative Berlanga, et al.*

*Senate Sponsor: Senator Zaffirini*

- Δ Outlines provisions regarding the authority of HHSC to administer and operate the Medicaid program.
- Δ Requires HHSC or an agency operating part of the state Medicaid managed care program to implement the Medicaid managed care program as part of the health care delivery system developed by contracting with managed care organizations in a manner that achieves certain goals.
- Δ Requires HHSC, in awarding contracts to managed care organizations, to give preference to organizations that have significant participation in the organization's provider network for each health care provider in certain regions, to give extra consideration to organizations that agree to assure continuity of care for a certain period, and to consider the need to use different managed care plans to meet the needs of different populations.
- Δ Requires HHSC to contract with at least one managed care organization in a region that is licensed under the Texas Health Maintenance Organization Act to provide health care in the region in providing health services through Medicaid managed care to participants in a health care service region.

- Δ Requires HHSC to review each managed care organization that contracts with HHSC to determine whether the organization is prepared to meet its contractual obligations.
- Δ Requires HHSC to establish marketing guidelines for managed care organizations that contract with HHSC.
- Δ Requires HHSC to ensure that managed care organizations develop special disease management programs to address chronic health conditions.
- Δ Authorizes HHSC, in conjunction with an academic center, to study the treatment of indigent populations to develop special protocols.

## Health Coverage for Diabetes Equipment and Supplies - S.B. 163

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Berlanga*

- △ Requires defined health benefit plans that provide benefits for the treatment of diabetes and associated conditions to provide coverage to qualified individuals for diabetes equipment, supplies, and self-management training programs.
- △ Requires defined health benefit plans to include coverage of new or improved equipment or supplies approved by the United States Food and Drug Administration.
- △ Prohibits setting deductibles, copayments, or coinsurance requirements for diabetes benefits at a higher rate than those for treatment of other analogous chronic medical conditions.
- △ Requires the Commissioner of Insurance (commissioner) to adopt necessary rules for implementation of this bill.

## Regulation of Insolvent HMOs and Limited Service Plans - S.B. 382

*by Senator Madla, et al.*

*House Sponsor: Representative Smithee, et al.*

- △ Requires a health maintenance organization (HMO) that provides limited health care service plans to obtain a certificate of authority from the Texas Department of Insurance (TDI). Also requires the agency to provide TDI with a description of the health care services being provided under the plan.
- △ Sets the level of minimum surpluses required to be held by an HMO providing a limited health care service plan in the state.
- △ Prohibits an HMO that is organized to do business in Texas from going to federal bankruptcy court upon determination that it is insolvent and provides exclusive venue of receivership and delinquency proceedings to occur in Travis County.
- △ Requires the TDI commissioner to allocate enrollees of an insolvent HMO among all the remaining HMOs in that service area.
- △ Establishes coverage rates for the successor HMOs.

## Quality Standards for PPOs and Consumer Protections - S.B. 383

*by Senator Cain, et al.*

*House Sponsor: Representative Smithee, et al.*

- Δ Authorizes insurers to offer a preferred provider benefit plan to enrollees if the plan complies with certain requirements.
- Δ Requires insurers offering preferred provider benefit plans to:
  - Δ afford all health care providers with an opportunity to become preferred providers. Establishes notification requirements, an appeals process for those providers not selected, and an annual opportunity for physicians to participate in the plan;
  - Δ contract with enough providers to assure that all medical and health care services are covered. Requires each insured patient to have the right to treatment and diagnostic techniques as prescribed by the provider;
  - Δ establish a system for resolving complaints and terminating providers. Requires insurers to release information on provider performance if used for admitting or terminating providers including benchmark standards;
  - Δ use at least three contracting physicians for quality assessment purposes; and
  - Δ ensure that benefits are reasonably available to all those insured within a designated service area, or requires reimbursement to nonpreferred providers.
- Δ Establishes requirements to be included in preferred provider contracts, including: prohibition against “hold harmless” clauses which remove the insurer’s tort liability that results from its acts or omissions; prohibition in the billing of enrollees by providers at prices different than the contractual price; insurer assuring compliance if it contracts for services with another preferred provider organization; and insurer providing prompt payment to providers.

- △ Establishes procedures for continuity of treatment when a provider is terminated from the preferred provider plan, including reasonable advanced notice of termination to patients and obligation of provider to continue treatment and of the insurer to continue payments to providers. Lists special circumstances under which coverage may be continued, although in most instances continuation of coverage following provider termination is limited to 90 days.
- △ Requires insurers to reimburse out-of-network providers for defined emergency care services.
- △ Establishes mandatory disclosure requirements for insurers to enrollees, and provides guidelines for notification in cases of provider termination.
- △ Prohibits retaliatory action against an enrollee or provider for filing a complaint against the insurer.
- △ Requires the commissioner to adopt necessary rules to ensure reasonable accessibility and availability of preferred and basic level benefits to Texans.

### **Utilization Review for Health Care Agencies - S.B. 384**

*by Senator Nelson, et al.*

*House Sponsor: Representative Smithee, et al.*

- △ Requires utilization review (UR) decisions to be made in accordance with currently accepted medical or health care practices. Requires screening criteria to meet certain guidelines, and to only be used to determine whether to approve the requested treatment. Requires denials to be referred to an appropriate provider to determine medical necessity.
- △ Requires a UR agent to maintain a complaint system for oral and written complaints.
- △ Authorizes a UR agent to delegate UR to qualified personnel, while retaining full responsibility for ensuring compliance.
- △ Requires the UR agent to disclose the clinical basis for denying coverage and establishes a complaint and appeals process.
- △ Requires UR agent to provide a written description to the commissioner on the procedures to be used when responding to post-stabilization care subsequent to emergency treatment as requested by a provider.

- △ Prohibits disclosure by UR agents of any personal information about the patient without written consent, except to the commissioner, who may still collect the personal information to determine compliance. Allows individuals to access their own recorded personal information, at a reasonable charge, from UR agents.
- △ Authorizes the commissioner to assess administrative penalties for violating applicable regulations.
- △ Requires a UR agent who reviews specialty health care services, including but not limited to dentistry, chiropractic, or physical therapy, to comply with certain UR provisions.

### **Consumer Protection and Increased Accountability of HMOs - S.B. 385**

*by Senator Sibley, et al.*

*House Sponsor: Representative Smithee, et al.*

#### ***General Provisions***

- △ Requires the office of public insurance counsel to develop and implement a system to compare and evaluate, on an objective basis, the quality of care provided by and performance of an HMO established under the Texas Health Maintenance Organization Act.
- △ Prohibits a person, physician, or provider from performing any of the acts of an HMO, except as provided by and in accordance with specific authorizations under law. Prohibits performance of any of the acts of a HMO without a certificate of authority from TDI and gives the TDI commissioner subpoena authority.
- △ Requires additional information to be provided in obtaining a certificate, including health care plan terms and conditions; network configuration; types of compensation arrangements; and guarantee of coverage and payment for defined emergency care services. Requires the TDI commissioner to be satisfied that an HMO has met certain criteria before issuing a certificate of authority.
- △ Requires HMOs to provide coverage to non-network providers if network providers are not available and to allow for coverage by nonprimary care physician specialists when an enrollee has a chronic, disabling, or life threatening illness.
- △ Mandates prompt payment from HMOs to enrollees and payment to a physician or provider within 45 days after the claim for payment is received.

- △ Requires HMOs that offer basic health care plans to provide services to enrollees as needed without limitations as to time and cost, other than those prescribed by TDI.
- △ Allows enrollees in HMOs to change their primary care provider to another physician in the HMOs up to four times per year.
- △ Requires HMOs to establish and maintain an internal system for resolving any written or oral complaints. Authorizes the commissioner to adopt reasonable rules for implementation and administration purposes. Authorizes any person to use TDI, if the person is dissatisfied with the resolution of an issue.
- △ Establishes requirements for certain dental HMOs or other single service HMOs that provide dental benefits.

### *HMO Contract Provisions*

- △ Requires Medicare-contracting HMOs to provide prospective enrollees with a disclosure form, developed by the commissioner, which details the impact of selecting a Medicare HMO.
- △ Requires HMOs to establish and maintain an internal system for resolving any written or oral complaints. Authorizes the commissioner to adopt reasonable rules for implementation and administration purposes. Authorizes any person to use TDI, if the person is dissatisfied with the resolution of an issue.
- △ Prohibits HMOs from including gag rules in provider contracts and from taking retaliatory action against a provider or enrollee for filing a complaint or appealing a decision. Prohibits HMOs from using financial incentives to a physician or provider that could act as an inducement to limit necessary services.
- △ Requires an HMO to provide to the commissioner a copy of any contract, agreement, or other arrangement between an HMO and a physician or provider upon request. Authorizes the commissioner to examine and use the records of a HMO as necessary, including for an enforcement action.
- △ Requires an HMO to make available and disclose to providers, upon request, written application procedures and qualification requirements for contracting with the HMO.

- △ Requires an HMO that terminates a contract with a provider to give written notice indicating the reasons for termination. Authorizes a review of the termination by an advisory review panel, except in certain situations.
- △ Requires a contract between an HMO and a provider to provide that reasonable advance notice be given to an enrollee of the impending termination. Specifies that the termination does not release the HMO from the obligation to reimburse a provider treating an enrollee with special circumstances for 90 days beyond the effective date of termination.
- △ Requires an HMO to provide an expedited review process, upon request, to a provider who is terminated or deselected.
- △ Requires HMOs which utilize capitation as a method of payment to comply with specific provisions.
- △ Prohibits a contract between an HMO and a provider from containing any clause purporting to indemnify the HMO for any tort liability resulting from acts or omissions of the HMO.
- △ Requires contracts between HMOs and providers to specify that the provider will hold an enrollee harmless for payment of the cost of covered health care services in the event the HMO fails to pay the provider for services.
- △ Requires an HMO that uses economic profiling of providers within the HMO to make this information available to a network provider, on request.
- △ Requires contracts between an HMO and a provider to mandate the provider to post a notice to enrollees on the process for resolving complaints with the HMO.

### *Enforcement Provisions*

- △ Authorizes TDI to impose sanctions, administrative penalties, or to issue a cease and desist order to HMOs not in compliance with the Act.
- △ Authorizes TDI to develop rules to ensure that enrollees have adequate access to health care services, and to establish a minimum physician/patient ratio, mileage requirement for primary and specialty care, maximum travel time, and maximum waiting times for appointments.
- △ Requires an HMO to establish procedures to assure that the health care services provided to enrollees are rendered under reasonable standards of quality of care. Requires HMOs to develop an internal quality assurance program, patient record system, and reporting system. Authorizes TDI to access clinical records of an HMO.

**Ordinary Standard of Care for Health Insurers - S.B. 386**

*by Senator Sibley, et al.*

*House Sponsor: Representative Smithee, et al.*

- △ Establishes a duty of ordinary care for health insurance carriers, HMOs, and managed care entities and holds them liable for damages resulting from a failure to exercise this duty. Applies the same liability to employees, agents, ostensible agents, or representatives of these entities. Stipulates that the ordinary care duty does not create an obligation to provide non-covered treatments.
- △ Authorizes a defense to prosecution for health insurance carriers, HMOs, and managed care entities in instances where they did not control, influence, or participate in the health care treatment decision and did not deny or delay payment for any treatment prescribed or recommended by a provider.
- △ Provides that there is no liability created by the ordinary care duty for an employer, an employer purchasing organization, or a licensed pharmacy that purchases coverage or assumes risk on behalf of its employees.
- △ Prohibits health insurance carriers, HMOs, and managed care entities from removing or refusing to renew health care providers for advocating on behalf of the enrollee to obtain appropriate and medically necessary health care.
- △ Voids all “hold harmless” or “indemnification” clauses between health insurance carriers, HMOs, or managed care entities and health care providers or pharmaceutical companies.
- △ Prevents health insurance carriers, HMOs, and managed care entities from using any state law prohibiting them from practicing medicine or being licensed to practice medicine as a defense in any legal action.
- △ Establishes a minimum level for determining if a health care provider is an employee, agent, ostensible agent, or representative for a health insurance carrier, HMO, or managed care entity.
- △ States that the law does not apply to workers’ compensation insurance coverage.

- △ Prohibits a person from maintaining a cause of action against a health insurance carrier, HMO, or managed care entity unless the person has exhausted the appeals and review applicable under the utilization review requirements or, before instituting the action, provides written notice of the claim and agrees to submit the claim to a review by an independent review organization. Sets forth specific guidelines for providing written notice and instances where submission to the independent review organization is not required. Allows a person to pursue other appropriate remedies in instances in which the process would place the person's health in serious jeopardy.
- △ Authorizes any party, whose appeal of an adverse determination is denied by a utilization review agent, to obtain a review by an independent review organization. Requires the utilization review agent to provide certain information to the independent review organization to comply with the independent review determination, and to pay for the independent review.
- △ Requires every HMO to establish and maintain a complaint system for handling oral and written complaints concerning health care services.
- △ Requires the commissioner of insurance to develop standards and rules regarding independent review organizations. Sets forth time requirements for independent review organizations to render a determination. Provides that an independent review organization is not liable for damages arising from the determination unless it is done in bad faith or involves gross negligence.

### **Advance Directives Act - S.B. 414**

*by Senator Mark Tierney*

*House Sponsor: Representative Coleman, et al.*

- △ Makes changes to advance directives under the Natural Death Act, out-of-hospital do-not-resuscitate (DNR) orders, and durable power of attorney for health care, and combines the changes in a new Advance Directives Act.
  - △ Provides a list of persons who may not be witnesses to the execution of an advance directive or issuance of a non-written advance directive. Requires the policies to include a clear and precise statement of any procedure the health care provider is unwilling or unable to withhold in accordance with an advance directive.
  - △ Requires a health care provider to maintain certain written policies on implementing advance directives and to provide written notice of the policies.

- △ Amends the Natural Death Act.
  - △ Deletes the list of persons who may not be witnesses to the signature of a written advance directive.
  - △ Provides that a written directive for a competent adult or on behalf of a patient younger than 18 years old is effective without being notarized.
  - △ Allows the attending physician and the patient's legal guardian or an agent under a durable power of attorney for health care to make a treatment decision if an adult patient has not executed or issued a directive, and is comatose, incompetent, or otherwise mentally or physically incapable of communication.
  - △ Allows the attending physician and one person from a specified list of persons to make a treatment decision, if the patient does not have a legal guardian or an agent under a durable power of attorney for health care. Requires the treatment decision to be documented in the patient's medical record and signed by the attending physician. Deletes the requirement that the treatment decision must be made in the presence of two witnesses. Requires another physician who is not involved in the treatment of a patient to witness the treatment decision, if the patient does not have a legal guardian and a person from the list specified earlier is not available.
  - △ Provides that a physician or health facility that, in good faith, causes life-sustaining procedures to be withheld or withdrawn from a patient in accordance with this law, is not civilly liable for that action. Deletes the exception of negligence.
  - △ Provides that a health professional, acting under the direction of a physician, who participates, in good faith, in withholding or withdrawing life-sustaining procedures from a patient in accordance with this law is not civilly liable for that action. Deletes the exception of negligence.
  - △ Provides that a physician, or a health professional acting under the direction of a physician, who participates, in good faith, in withholding or withdrawing life-sustaining procedures from a qualified patient in accordance with this law is not criminally liable or guilty of unprofessional conduct as a result of that action. Deletes the exception of negligence.

- Δ Amends provisions affecting out-of-hospital DNR orders.
  - Δ Deletes the requirements that witnesses to written out-of-hospital DNR orders, orders by nonwritten communications, and procedures when a person has not executed or issued such orders and is incompetent or incapable of communication must have the same qualifications as witnesses to a written directive by a competent adult under the Natural Death statute.
  - Δ Provides for the attending physician and at least two qualified relatives to follow the execution of an out-of-hospital DNR order as outlined in previous changes to the Natural Death statute if a person does not have a legal guardian, proxy, or agent and is incompetent or incapable of communication.
- Δ Amends provisions affecting durable power of attorney for health care.
  - Δ Authorizes an agent with the authority to make health care decisions under a durable power of attorney to make any health care decision that a person could make if the person were competent. Makes similar wording changes regarding competency throughout other provisions on durable power of attorney for health care.
  - Δ Allows an agent to exercise authority only if the attending physician certifies in writing and files the certification in the medical record, that the person is incompetent.
  - Δ Requires the durable power of attorney for health care to be signed by the principal in the presence of at least two witnesses meeting qualifications as provided by the new definitions adopted under the Advance Directives Act. Deletes certain restrictions on who a witness may not be, but keeps the provision that a witness may not be an agent.
  - Δ Changes the disclosure statement and the durable power of attorney forms to incorporate changes to the list of people who may not act as witnesses.
  - Δ Requires administrative penalties of \$500 against home and community support services agencies, hospitals, nursing facilities, special care facilities, and personal care facilities that violate the section on health care providers maintaining written policies on advance directives and providing written notices of the policies.

## Statewide Rural Health Care System Act - S.B. 1246

*by Senator Madla, et al.*

*House Sponsor: Representative Berlanga, et al.*

- △ Establishes the statewide rural health care system (system) to arrange for or provide health care services on a prepaid basis to enrollees who reside in rural communities.
- △ Establishes requirements for the system and requires the commissioner of insurance (commissioner) to designate one organization as the system.
- △ Requires the system to contract with or otherwise arrange for local health care providers to deliver health care services to enrollees. Authorizes the system to contract with health care providers who are not local health care providers, if local providers are unable to provide the type and quality of services needed.
- △ Requires the state to award to the system at least one state Medicaid managed care contract, except in specific instances.
  - △ Requires any entity selected by the state Medicaid contracting entity to provide health care to those children to use local health care providers and hospital providers in establishing its provider network, if the system elects not to receive a subcontract or provide the state share of matching funds.
  - △ Requires the system to address specific qualifications for arranging to provide health care services to beneficiaries of certain governmental health care programs as a requirement for participating in any state contract.
  - △ Requires that the system be reimbursed at the state-defined capitation rate for each service area in which the system operates.

## Changing Regulation of HMO Agents - H.B. 219

*by Representatives Brimer and Siebert*

*Senator Sponsor: Senator Patterson*

- △ Repeals the section of the HMO Act that stipulates licensing requirements for HMO agents, and makes them subject to the laws and regulations governing life, accident, and health insurance agents.
- △ Prohibits an unlicensed person or legal entity from representing an HMO.

## Federal Insurance Reforms and Texas Health Insurance Risk Pool - H.B. 710

*by Representative Averitt, et al.*

*Senate Sponsor: Senator Sibley*

- △ Amends the Texas Health Insurance Risk Pool (pool) to implement new federal requirements. Modifies group and individual health insurance and HMO benefits to comply with federal health reforms.

### *Regulating Texas' Health Insurance Risk Pool*

- △ Provides that a member of the board of directors of the pool (board) is not liable for an action or omission performed in good faith in the performance of powers and duties under this article.
- △ Requires the plan of operation submitted by the pool's initial board to include procedures for operation of the pool and other items.
- △ Requires the board to promulgate a list of medical or health conditions for which a person shall be eligible for pool coverage without applying for health insurance.
- △ Requires the board to make an annual report on the activities of the pool.
- △ Authorizes, rather than requires, the board, after completing a competitive bidding process to select one or more insurers or a third party administrator to administer the pool.
- △ Authorizes the commissioner to establish additional powers and duties of the board and other rules as necessary.
- △ Authorizes, rather than requires, the board to consider appropriate risk factors in accordance with established actuarial and underwriting practices in regard to rates and rate schedules.
- △ Outlines new provisions for the pool to determine the standard risk rate and other rates.

### *General Standards for Coverage*

- △ Requires any individual person who is and continues to be a resident of Texas and a citizen of the United States to be eligible for coverage from the pool if certain evidence is provided.

- △ Requires each dependent of a person who is eligible for coverage to also be eligible.
- △ Requires resident family members, in the instance of a child who is the primary insured, to be eligible for coverage.
- △ Revises provisions regarding who is not eligible for coverage from the pool.
- △ Provides when pool coverage ceases.
- △ Requires the pool to offer pool coverage consistent with major medical expense coverage to each eligible person who is not eligible for Medicare. Requires the board, with the approval of the commissioner, to establish the coverage to be provided by the pool and other provisions.
- △ Requires pool coverage to exclude certain charges or expenses incurred for preexisting conditions, as defined. Prohibits a preexisting condition provision from applying to an individual who has been continuously covered for an aggregate period of 12 months by health insurance.
- △ Authorizes the board to assess insurers and make advance interim assessments as reasonable and necessary for the plan's organizational and interim operating expenses. Requires the excess to be used to offset future losses or reduce future assessments.
- △ Requires the board to determine and report annually to the commissioner the net loss, if any, of the pool for the previous calendar year, taking into account investment income and other appropriate gains and losses. Requires any net loss for the year to be recouped by assessments on insurers. Requires each insurer's assessment to be determined annually by the board, based on annual statements and other reports.
- △ Authorizes an insurer to petition the commissioner for an abatement or deferment of all or part of an assessment. Authorizes the commissioner to abate or defer such assessment and adds other provisions regarding abating and deferring assessments. Prohibits the total of all assessments on an insurer from exceeding one-half of one percent of the insurer's collected premiums for health insurance in this state.
- △ Entitles an applicant or participant covered under the pool to have complaints against the pool reviewed by a grievance committee appointed by the board. Establishes procedures for the grievance committee.
- △ Requires the state auditor to conduct annually a special audit of the pool.

## *Group Coverage*

- △ Requires any insurer or group hospital service corporation, as defined, to provide a group privilege.
- △ Requires policies to provide continuation of group coverage for employees or members and their eligible dependents subject to the eligibility provisions. Deletes provisions requiring insurers to first offer conversion policies and other provisions.
- △ Authorizes an insurer to offer to each employee, member, or dependent a conversion policy, and outlines its issuance and other restrictions.

## *Individual Coverage*

- △ Prohibits a preexisting condition provision in an individual health insurance policy from applying to an individual who was continuously covered for an aggregate period of 18 months by creditable coverage.
- △ Requires an individual health insurance policy providing benefits for medical care under a hospital, medical, or surgical policy to be renewed or continued in force at the option of the individual.
- △ Authorizes an individual health insurance policy providing benefits for certain medical care to not be renewed or to be discontinued only for certain reasons.
- △ Requires an HMO to provide a group continuation privilege as required, including specific provisions for the continuation of group coverage.
- △ Authorizes an HMO to offer each enrollee a conversion contract.
- △ Authorizes an HMO to provide an individual health care plan as required.
- △ Authorizes an HMO to limit its enrollees to those who live, reside, or work within the service area for such network plan.
- △ Authorizes an individual health care plan or conversion contract to be renewable at the option of the enrollee, and permits denial of renewals only for specific reasons.

**Prohibiting Restrictions on Physician Communications -  
H.B. 812**

*by Representative Janek, et al.  
Senate Sponsor: Senator Sibley*

- Δ Prohibits an HMO from restricting the ability of a physician, dentist, or provider, as a condition of a contract, to communicate with a current, prospective, or former patient regarding certain information or opinions.
- Δ Prohibits a HMO from penalizing, terminating, or refusing to compensate, for covered services, a physician, dentist, or provider who communicates certain information with a current, prospective, or former patient. Makes all contract provisions violating these prohibitions void.
- Δ Prohibits a hospital from restricting a physician's ability to communicate certain information to a patient.
  - Δ Prohibits a hospital from restricting a physician's staff privileges based on the fact that the physician or a partner, associate, or employee of the physician is providing medical or health care services at a different hospital or hospital system. Authorizes a hospital to limit staff privileges based on its medical staff development plan or limit the ability of its medical directors to hold medical staff privileges at a different hospital. Makes all contract provisions violating the prohibition void.

**Health Insurance for Victims of Family Violence - H.B. 839**

*by Representative Driver, et al.  
Senate Sponsor: Senator Cain*

- Δ Prohibits certain health benefit plan insurers or life insurers (insurers) from denying coverage, refusing to renew coverage, canceling coverage, or limiting the amount, extent, or kind of coverage available to a person because of that person's status as a victim of family violence.
- Δ Prohibits an insurer from releasing information relating to the victim of family violence except to certain persons.

## Health Insurance Portability and Availability - H.B. 1212

*by Representative Averitt, et al.*

*Senate Sponsor: Senator Sibley*

### *General Provisions*

- △ Defines “large employer” as an employer who employed an average of at least 51 eligible employees on business days during the preceding calendar year and who employs at least two eligible employees on the first day of the plan year. Defines “small employer” as an employer who employed at least two but not more than 50 eligible employees on business days during the preceding calendar year and who employs at least two eligible employees on the first day of the plan year.
- △ Sets forth types of coverage for an individual which is deemed to be creditable.
- △ Authorizes an independent school district to participate in the small employer market without regard to the number of eligible employees.
- △ Requires the commissioner to adopt rules as necessary to meet the minimum requirements of federal law and regulations.
- △ Requires initial enrollment period to consist of an entire calendar month. Prohibits the period from which a preexisting condition provision is imposed from exceeding 18 months from the date of the initial application.

### *Small Employer Provisions*

- △ Prohibits a small employer health benefit plan from limiting or excluding initial coverage of an adopted child of an insured.
- △ Adds requirements under which a small employer carrier does not have to:
  - △ offer or issue the small employer benefit plan that the carrier is acting uniformly without regard to claims experience of the employer or any health status related factor of employees or dependents; or
  - △ renew the small employer health benefits plan to include no enrollee residing in authorized service area or membership of an employer in an association terminates.

- △ Authorizes a small employer carrier to:
  - △ discontinue a particular type of small employer coverage only if the carrier provides notice to each employer, offer option small employer coverage to each employer, and acts uniformly without regard to claims experience or health status; and
  - △ establish premium discounts, rebates, or a reduction to copayments or deductibles in return for complying with health promotion and disease prevention programs.
- △ Requires each small employer carrier to disclose on request the benefits and premiums under all small employer coverage for which the employer is qualified, unless the information is proprietary or a trade secret.
- △ Prohibits a small employer carrier from treating genetic information in absence of a diagnosis of the condition and pregnancy as a preexisting condition.
- △ Authorizes an HMO to impose an affiliation period or an approved alternative method, subject to specific time limits, to address adverse selection.

### *Large Employer Provisions*

- △ Establishes oversight of health benefit plans for large employers if a portion of the premium or benefits is paid by the large employer or the plan is treated by the employer or by a covered individual as part of a federal tax deductible plan or program.
- △ Requires each health carrier to certify to the commissioner whether it is offering a health large employer health benefit plan.
- △ Authorizes a large employer carrier to refuse to provide coverage to a large employer in accordance with the carrier's underwriting stands and criteria. Requires, on issuance of the plan, that the carrier provide coverage to the employees who meet the participation criteria without regard to an individual's health status.

- △ Requires a large employer carrier to either accept or reject the entire group of individuals who meet the participation criteria established by the employer and who choose coverage. Allows a carrier to exclude only those employees or dependents who decline coverage. Requires carrier to obtain a written waiver for each employee who declines coverage. Prohibits a carrier from offering coverage if it knows the large employer has induced or pressured an employee to decline coverage.
- △ Authorizes a large employer carrier to require a large employer to meet minimum contribution or participation requirements as a condition of issuance and renewal of a health benefit plan.
- △ Requires an initial enrollment period for employees and dependents meeting the participation criteria. Authorizes a large employer to establish a waiting period for new employees. Authorizes a late enrollee to be excluded from coverage until the next annual open enrollment period and subject to a 12-month preexisting condition provision.
- △ Prohibits a large employer health benefit plan from using a rider or amendment applicable to a specific individual to limit or exclude coverage by type of illness, treatment, medical condition, or accident, except for a permitted preexisting condition.
- △ Prohibits a large employer health benefit plan from limiting or excluding initial coverage or a newborn child of a covered employee. Requires coverage to terminate on the 32nd day after the date of birth unless the child is eligible for coverage and any additional premium is paid. Requires a plan to include an adopted child as a dependent if the dependent is eligible for coverage.
- △ Establishes similar coverage requirements for a large employer carrier as is developed for a small employer carrier in regard to geographic coverage; renewal of coverage; refusal to renew; notice to covered persons; and preexisting condition provisions.
- △ Prohibits a large employer carrier from charging an adjustment to premium rates for individual employees or dependents for health status related factors or duration of coverage.
- △ Requires a large employer to give, on request, a summary of all health benefit plans for which the employer is eligible. Authorizes TDI to require periodic reports by large employer carriers and agents regarding the large employer health benefit plans issued by those carriers.

- △ Prohibits a large employer carrier or agent from encouraging a large employer to exclude an employee who meets the participation criteria from health coverage provided in connection with employment.
- △ Prohibits a large employer carrier from terminating, failing to renew, or limiting its contract with an agent because of any health status related factors of a large employer group placed by the agent with the carrier.
- △ Requires a third-party administrator, if used by a large employer carrier for administrative, marketing, or other services relating to the offering of large employer health benefit plans, to be subject to regulation.
- △ Establishes requirements for certification of coverage. Requires each issuer of a health benefit plan to provide a certification of coverage, in accordance with standards adopted by the commissioner, as necessary to determine the period of applicable creditable coverage of health benefit plans.

### *Multiple Employer Welfare Arrangement (MEWA) Provisions*

- △ Establishes requirements for a MEWA, which are the same as large employer in regard to coverage requirements, renewal of coverage, refusal to renew, notice to covered persons, premium rates, fair marketing, preexisting condition provisions, written statement of denial, cancellation, or refusal to renew, and third-party administrator.
- △ Requires each MEWA to file any modified terms of a plan document along with a certification that any changes are in compliance with minimum standards. Authorizes the commissioner to take corrective action against a MEWA not in compliance with minimum standards.

### **Health Coverage Using Telemedicine - H.B. 2033**

*by Representative Gray  
Senate Sponsor: Senator Sibley*

- △ Prohibits certain health benefit plans from excluding a service from coverage solely because the service is provided through telemedicine and not provided through face-to-face consultation.
- △ Authorizes a deductible, copayment, or coinsurance to be required for telemedicine services, but these cannot exceed amounts required for the same services provided through a face-to-face consultation.
- △ Requires a treating physician or other health care provider who provides or facilitates the use of telemedicine to ensure that informed consent of the patient is obtained and the patient's medical information is kept confidential.

## **Insurance Coverage of Services Provided by Advanced Practice Nurses and Physician Assistants - H.B. 2846**

*by Representatives Berlanga and Maxey  
Senate Sponsor: Senator Madla*

- Δ Requires an HMO to cover health care services provided by an advanced practice nurse (APN) or a physician assistant (PA).
- Δ Expands the definition of "primary practice site" to include a clinic operated by or for the benefit of a public school district for the purpose of providing care to the students of that district and the siblings of those students, if consent to treatment at that clinic is obtained.
- Δ Establishes time requirements once every 10 business days, for on-site physician supervision of an APN or PA.
- Δ Prohibits an HMO from refusing to identify an APN or PA as a provider in the provider network unless the PA or APN fails to meet certain quality standards.
- Δ Prohibits an HMO from refusing to contract with refusing to reimburse for covered services, or otherwise discriminating against an APN or PA.

## **HMO Coverage for Non-Network and Nonprimary Care Providers - H.B. 3269**

*by Representative Berlanga  
Senate Sponsor: Senator Sibley*

- Δ Requires an HMO to allow referral to a non-network physician or provider if medically necessary covered services are not available through network physicians or providers. Requires reimbursement of the non-network physician or provider at the usual and customary or an agreed rate.
- Δ Authorizes an enrollee with a chronic, disabling, or life-threatening illness to apply to the HMO's medical director to use a nonprimary care physician specialist as the enrollee's primary care physician.

## Direct Access to Obstetrical and Gynecological Health Care - S.B. 54

*by Senator Shapiro, et al.*

*House Sponsor: Representative Gray, et al.*

- Δ Requires certain health benefit plans (plans) to permit a woman to select, in addition to a primary care physician, an obstetrician or gynecologist (Ob/Gyn) to provide health care services within the scope of the professional specialty practice.
- Δ Requires plans to permit a woman who selects an Ob/Gyn direct access to the health care services without prior authorization or precertification.
- Δ Prohibits plans from sanctioning or terminating primary care physicians as a result of women directly selecting an Ob/Gyn.
- Δ Requires plans to provide to persons covered by their plan notice of the choices of types of physician providers for the direct access to health care services.

## Parental Notification for Abortion - S.B. 86 (Died in the House)

*by Senator Shapiro, et al.*

- Δ Requires parental notification before an abortion can be performed on a minor by a licensed physician and provides the following exceptions to parental notification:
  - Δ the minor does not have a guardian or managing conservator;
  - Δ the minor is granted a court order that authorizes the minor to consent;
  - Δ the abortion is a medical emergency and there is insufficient time to provide the required notice; and
  - Δ the person to whom notice is given cannot be located after a constructive attempt.
- Δ Provides that a physician who violates this section commits a Class A misdemeanor.
- Δ Authorizes a court, guardian, or attorney for the minor to report sexual abuse of the minor based on information obtained during a confidential court proceeding to the appropriate law enforcement regulatory agency.

**Diabetes Treatment and Prevention - S.B. 162**

*by Senator Barrientos, et al.*

*House Sponsor: Representative Raymond*

- △ Requires the Health and Human Services Commission (HHSC) to develop a pilot program which provides comprehensive health care services to the diabetic population in selected counties with a high incidence of and a high death rate from diabetes. Requires the program to be administered by the Texas Diabetes Council (council). Establishes the membership of the council. Requires the HHSC to report the findings of the program to the legislature.
- △ Requires the commissioner of insurance, in consultation with the council, to adopt, by rule, minimum standards for benefits provided by certain health care plans to enrollees with diabetes.
- △ Requires the council to provide a plan for providing public awareness information through businesses, civic organizations, and similar entities in its general public awareness strategy. Requires the council to develop and make available diabetes materials at public and secondary schools.
- △ Requires the State Board of Education to develop a diabetes education program.

**Health Care Co-Pay for Inmates - S.B. 203**

*by Senator Shapiro, et al.*

*House Sponsor: Representative Staples, et al.*

- △ Charges inmates in Texas Department of Criminal Justice (TDCJ) facilities, other than a halfway house, a \$3 co-pay for initiating medical visits.
- △ Prohibits TDCJ from charging a co-payment for health care: provided in instances of life-threatening situations; initiated by TDCJ; initiated by the health care provider or consisting of routine follow-up, prenatal, or chronic care; or provided under a contractual obligation.
- △ Prohibits TDCJ from denying an inmate access to health care as a result of failure or inability to pay. Credits funds generated in excess of operating costs to the general revenue fund.

**Coverage for Breast Reconstruction Following a  
Mastectomy - S.B. 217**

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Van de Putte*

- △ Requires certain health benefit plans that provide coverage for a mastectomy resulting from breast cancer to provide coverage for a breast reconstruction operation to restore or achieve breast symmetry after a mastectomy has been performed.

**Coverage of Tests for Prostate Cancer - S.B. 258**

*by Senator Ellis*

*House Sponsor: Representative McCall*

- △ Requires certain health benefit plans to provide coverage of tests for the detection of prostate cancer.

**Hospital License for Multiple Locations - S.B. 422**

*by Senator Cain*

*House Sponsor: Representative Driver*

- △ Requires a comprehensive medical rehabilitation hospital and pediatric and adolescent hospital to have an emergency treatment room, but does not require them to have an emergency department.
- △ Defines “premises” as a single building where inpatients receive hospital services, or multiple buildings where inpatients receive hospital services if they meet criteria as specified.
- △ Adds authority for the hospital licensing advisory council to recommend to the board of health waiving or modifying requirements on minimum standards to a particular general or special hospital.

**Immunization by Pharmacists - S.B. 786**

*by Senator Madla*

*House Sponsor: Representative Van de Putte*

- △ Allows a pharmacist to administer immunizations and vaccinations under a physician’s written prescription.

- △ Requires the Texas State Board of Pharmacy:
  - △ to require pharmacists to notify the prescribing physician within 24 hours of administering the immunization or vaccination; and
  - △ to establish minimum education and continuing education standards for pharmacists.
- △ Sets forth the standards for defining adequate physician supervision in this matter.
- △ Prohibits a managed care entity from:
  - △ requiring a participating physician to prescribe an immunization or vaccination be administered by a pharmacist;
  - △ limiting immunization or vaccination benefits to enrollees to those administered by a pharmacist;
  - △ providing financial incentives to physicians to prescribe immunizations or vaccinations; and
  - △ imposing a financial or other penalty on a physician who refuses to prescribe immunizations or vaccinations.

## **Hospital Inspection - S.B. 908**

*by Senator Zaffirini*

*House Sponsor: Representative Chavez*

- △ Authorizes the Texas Department of Health, before issuing a renewal license to a hospital, to conduct an inspection of a Medicare certified or accredited hospital, if the hospital has not been inspected by the appropriate national bodies within the last three years.

## **Blindness Education, Screening, and Treatment - S.B. 1403**

*by Senator Moncrief*

*House Sponsor: Representative Naishtat*

- △ Requires the Texas Commission for the Blind to develop a Blindness Education, Screening, and Treatment Program for residents of Texas who are not covered under an adequate health benefit plan.
- △ Authorizes a \$1 increase in the fee for the issuance and renewal of a driver's license or a personal identification card, upon permission, to fund the program.

## **Minimum Stay and Postdelivery Care For Mothers and Infants - H.B. 102**

*by Representative Gray, et al.*  
*Senate Sponsor: Senator Shapiro*

- Δ Requires certain health benefit plans that provide maternity benefits to include coverage for inpatient care for a mother and her newborn child in a health care facility for a minimum of 48 hours following an uncomplicated vaginal delivery, and 96 hours following an uncomplicated delivery by cesarean section.

## **Disclosing Ingredients in Cigarettes - H.B. 119**

*by Representative Hirschi, et al.*  
*Senate Sponsor: Senator Zaffirini*

- Δ Requires each manufacturer to file with the Texas Department of Health (TDH) an annual report for each cigarette or tobacco product stating the identity of each ingredient, and a nicotine yield rating.
  - Δ Provides that this section does not require a manufacturer to disclose the specific amount of any ingredient in a cigarette or tobacco product if that ingredient has been federally approved as safe.
- Δ Requires each manufacturer to assign a nicotine yield rating to each cigarette or tobacco product.
  - Δ Requires the rating to be assigned in accordance with standards adopted by TDH.
- Δ Provides that information included in a report is public information and is not confidential unless otherwise determined.
- Δ Authorizes a district court to prohibit the sale or distribution in this state of a cigarette or tobacco product or grant any other injunctive relief warranted by the facts, on petition of TDH and on a finding by the court that a manufacturer has failed to file the annual report to TDH.
  - Δ Requires the attorney general to institute and conduct a suit as authorized at the request of TDH, to be brought in Travis County.

## **Allowing Physicians to Treat Pain in Certain Chemically Dependent Persons - H.B. 120**

*by Representative Hirschi, et al.*

*Senate Sponsor: Senator Moncrief*

- Δ Revises the Intractable Pain Treatment Act with regard to chemically dependent persons.
  - Δ Provides no authority for a physician to prescribe or administer dangerous drugs or controlled substances to a person for other than legitimate medical purposes and who the physician knows or should know to be using drugs for nontherapeutic purposes.
  - Δ Authorizes a physician to treat certain chemically dependent patients who develop an acute or chronic painful medical condition with a dangerous drug or a controlled substance.
  - Δ Requires a physician to monitor the patient to ensure the prescribed dangerous drug or controlled substance is used only for the treatment of the painful medical condition. Requires a physician to document specific items and consult with a health care professional, as appropriate.
- Δ Specifies that the Texas State Board of Medical Examiners has the right to cancel, revoke, or suspend the license of any physician who prescribes, administers, or dispenses a drug or treatment for other than legitimate medical purposes as defined by the board and that is nontherapeutic.
- Δ Provides that the Intractable Pain Treatment Act is not intended or to be interpreted to allow for prescribing illegal substances to any patient or person in violation of federal law.

## **Hospital Stay Coverage for Mastectomies - H.B. 349**

*by Representative Hamric, et al.*

*Senate Sponsor: Senator Shapiro*

- Δ Requires health benefit plans that provide benefits for the treatment of breast cancer to include coverage for inpatient care.
- Δ Prohibits the issuer of a health benefit plan from taking certain actions in order to limit coverage.

## Informed Consent for a Hysterectomy - H.B. 723

*by Representative Dukes, et al.*

*Senate Sponsor: Senator Wentworth*

- △ Requires the Texas Medical Disclosure Panel (panel) to develop and prepare written materials to inform a patient of the risks and hazards of a hysterectomy. Sets forth requirements of information which must be included in the written materials.
- △ Requires the panel to consult with the Texas State Board of Medical Examiners before developing written materials.

## Certification of Mammography Systems - H.B. 1534

*by Representative Hamric, et al.*

*Senate Sponsor: Senator Zaffirini*

- △ Requires the TDH, rather than the Texas Board of Health (board) , to apply to become an accreditation body under the Mammography Quality Standards Act of 1992 .
- △ Requires mammography systems to meet minimum criteria for certification, including operation by an individual certified as a medical radiologic technologist under Texas law who also meets requirements established by the Mammography Quality Standards Act of 1992.
- △ Provides for certification for three years, instead of one year.
- △ Requires the board to set and collect an annual fee for certification holders. Authorizes a late fee in addition to the annual fee.
- △ Requires TDH to inspect each mammography system that has not been fully certified under the Mammography Quality Standards Act of 1992.
- △ Requires a facility to notify recent patients if a facility's mammography system fails to meet TDH's certification standards and the failure is a Severity Level I violation under TDH rules.
- △ Authorizes TDH to require a facility to notify patients of any other failure of the facility's mammography system to meet certification standards.
- △ Repeals provisions allowing alternative certification of facilities.

**Health Service Corps Program for Medically Underserved Areas - H.B. 2192**

*by Representative Rangel  
Senate Sponsor: Senator Zaffirini*

- △ Provides for the establishment of a physician recruitment program for medically underserved areas.
- △ Requires the executive committee of the Center for Rural Health Initiatives (executive committee) to establish a program in the Center for Rural Health Initiatives (center) to assist communities in recruiting and retaining physicians to practice in medically underserved areas.
- △ Authorizes the center to award a stipend, not to exceed \$15,000 per year, to a physician entering into a written contract to provide services in a medically underserved area.
- △ Makes the physician liable for the stipend amount, interest on the amount, and reasonable state expenses, if the physician does not comply with contract terms.
- △ Authorizes the center to seek, receive, and spend money received through an appropriation, grant, donation, or reimbursement from any public or private source to administer the program.

**Faith-Based Chemical Dependency Treatment Programs - H.B. 2481**

*by Representative Swinford, et al.  
Senate Sponsor: Senator Sibley*

- △ Establishes an exemption for faith-based chemical dependency treatment programs that fulfill certain qualifications from the regulations for chemical dependency treatment facilities.
- △ Prohibits an exempted program from providing medical care, medical detoxification, or medical withdrawal services.
- △ Prohibits a state agency from denying an individual, a state, or federal social service benefit on the basis that the individual is participating in a faith-based residential chemical dependency treatment program.

**Possession of Tuberculin Vaccines and other Dangerous  
Drugs - H.B. 3075**

*by Representative Berlanga  
Senate Sponsor: Senator Zaffirini*

- Δ Authorizes a home and community support services agency or its nursing employees to purchase, store, or transport certain dangerous drugs for the purpose of administering the drugs under a physician's standing orders. Requires that any standing order for the vaccine or tuberculin meet specified requirements.
  
- Δ Requires a home and community support services agency to establish policies and procedures to ensure safe handling and storage and correct administration of the drugs.

## Texas Child Care Fund - S.B. 211

*by Senator Ellis, et al.*

*House Sponsor: Representative Naishtat, et al.*

- △ Creates the Texas Child Care Fund (fund) to be administered by the Texas Workforce Commission (TWC). Requires the fund to be used to maximize matching federal funds for child care and provides that the fund consists of state appropriations and money donated for child care services by local governments, businesses, nonprofit organizations, or other persons.
- △ Requires TWC or a local workforce development board that accepts child-care funds from TWC to contract with government organizations, public nonprofit agencies, or certain community-based organizations to administer the subsidized child-care program through the existing uniform statewide brokered system.
- △ Requires the Comptroller of Public Accounts, assisted by an interagency work group, to develop and periodically update a statewide guide for child care designed to assist consumers in making informed choices, and provide useful information to service providers.

## Child-Care Training Center Pilot Program - S.B. 213

*by Senator Ellis, et al.*

*House Sponsor: Representative Coleman, et al.*

- △ Requires the TWC to establish four pilot programs in which the workforce development division shall certify certain day-care training facilities to train recipients of public assistance in the early childhood care professions.
  - △ Requires the training centers to offer training and certification for recipients of public assistance in basic skills, child-care, child-care vendor entrepreneurial training, and early childhood education.
  - △ Requires TWC, in awarding a contract to a child-care center to offer training, to base its decision on the level of staff training and the history of the facility in delivering high-quality services.
- △ Authorizes TWC to also provide funding for the trainee to complete child-care certification; participate in ongoing interactive training; and establish a child-care business.
- △ Requires the training facility to establish a mentor relationship with the trainee, and provide the trainee with discounted child-care services. Prohibits the facility from counting the trainee in its staff-child ratio.

## Regulation of Child Care Services - S.B. 1539

*by Senator West*

*House Sponsors: Representatives Swinford and Greenberg*

- △ Clarifies procedures under which the Department of Protective and Regulatory Services (DPRS) licenses, certifies, and registers various kinds of child care services, including registered family homes, child care facilities, and residential institutions. Includes registered family homes as entities to be regulated by DPRS.

### *Listed and Registered Homes*

- △ Defines “children who are related to the caregiver” to include children, grandchildren, siblings, great-grandchildren, nieces, or nephews of the caregiver, and excludes them from regulation requirements.
- △ Establishes a new category called listed homes, and provides for the regulation of these homes by DPRS.
- △ Requires DPRS to:
  - △ promulgate minimum standards for registered family homes;
  - △ promulgate standards that apply to registered child-care facilities that will prevent breakdown of foster care and adoptive placement;
  - △ prescribe qualifications for a person who operates a regulated facility;
  - △ make rules for the immunization of children in regulated child care services; and
  - △ require children to be tested for and immunized against communicable diseases as recommended by TDH.
- △ Makes it a Class B misdemeanor to operate a regulated family home without listing or registering with DPRS.

### *Licensed Child Care Facilities*

- △ Requires DPRS to conduct a background and criminal history check on:
  - △ a person who will be a director, owner, operator, employee, or regular visitor of a child care facility; and
  - △ a person listing or registering a family home, as well as the home’s employees and regular visitors.

- △ Expands actions DPRS is able to take in regulating child care services to include suspending and refusing to deny a facility's license or a family home's registration.
- △ Provides that a provisional license may be renewed for an additional six months, rather than being nonrenewable.
- △ Provides that registration is not required of a Texas Juvenile Probation Commission facility, nor of a Texas Youth Commission facility.
- △ Deletes a requirement that registration fees collected under this chapter be deposited to the credit of the child care training fund.

## **Registered Family Homes for Child Care - H.B. 155**

*by Representative Greenberg  
Senate Sponsor: Senator Madla*

- △ Creates "listed family homes" as a new category of child care providers required to be regulated by DPRS.
- △ Requires DPRS to investigate a listed family home when DPRS receives a complaint of abuse or neglect of a child.
- △ Authorizes DPRS to inspect registered family homes as necessary.
- △ Prohibits a family home from placing a public advertisement that uses the title "registered family home" or "listed family home," or any variation of the phrase, unless the home is registered or listed with DPRS.
- △ Requires DPRS to charge each listed or registered family home an annual fee to cover a part of DPRS' cost in regulating family homes.
- △ Requires DPRS to conduct background and criminal history checks on persons closely associated with the operation of a listed or registered family home at the time the family home originally is listed or registered.
- △ Establishes provisions for:
  - △ the denial, suspension, refusal to renew, or revocation of a family home's listing or registration; and
  - △ the emergency suspension and closure of a listed or registered family home.

**Child Care Facility Inspections - H.B. 1555**

*by Representative Greenberg, et al.*

*Senate Sponsor: Senator Shapiro*

- Δ Requires the DPRS to coordinate monitoring inspections of licensed day-care centers, licensed group day-care homes, and registered family homes to eliminate redundant inspections.
  - Δ Requires DPRS to form a task force to develop an inspection protocol that will coordinate inspection by various state agencies.
- Δ Requires DPRS, immediately after completing a monitoring inspection, to review the results of the monitoring inspection with a representative of the facility and give the facility an opportunity to respond to the inspection results.

**Training Standards for Employees of Child Care Facilities  
- H.B. 2875**

*by Representatives Greenberg and Swinford*

*Senate Sponsor: Senator Shapiro*

- Δ Requires the DPRS to develop rules prescribing minimum training standards for an employee of a regulated child-care facility.
- Δ Prohibits DPRS from requiring an employee to repeat required training if the employee has completed the training within the time prescribed by DPRS rule.
- Δ Requires DPRS' local offices to make available at the local office locations a copy of the rules regarding minimum training standards, information enabling the owner or operator of a regulated facility to apply for training funds from other agencies to lower facility costs, and any other materials DPRS may develop to assist the owner or operator or other entity in providing the training.

**Child Support Enforcement Changes - S.B. 29**

*by Senator Zaffirini*

*House Sponsors: Representatives Goodman and Naishtat*

- △ Amends the Texas Family Code, implementing a number of changes, to integrate new federal welfare provisions into Texas statutes on child support. These changes include:
- △ distinguishing between a new administrative writ of withholding and a judicial writ of withholding to clarify new administrative procedures of enforcement;
  - △ requiring employers to enroll children of an eligible employee in dependent health coverage as ordered by the court or if notified through the administrative procedure;
  - △ allowing a motion for child support enforcement to include a request that the person owing past due child support for a child receiving welfare pay the past due child support or participate in work activities deemed appropriate by the court;
  - △ redefining a child support lien to include provisions that recognize liens from other states, as well as additional and procedural changes to child support liens;
  - △ revising income withholding provisions for child support enforcement;
  - △ authorizing administrative actions by the child support enforcement agency to establish parentage, locate a parent, and enforce child and medical support (actions include administrative subpoenas for financial information, ordering genetic testing, and ordering income withholding);
  - △ reviewing child support orders once every three years, if the child support deviates by a certain amount from the child support guidelines, and making necessary adjustments to meet support guidelines;
  - △ establishing the failure of a welfare recipient to provide accurate information on the identity of the mother or father of the child as a basis for the child support agency to determine that a person who receives public assistance (welfare) did not cooperate with the child support agency;

- Δ providing for administrative subpoenas for individuals, or private or public entities, to furnish information for child support enforcement; and
- Δ developing a system meeting federal requirements for exchanging data with financial institutions to identify people owing past due child support.

### *State Case Registry and Disbursement Unit*

- Δ Establishes a state case registry (registry) and a state disbursement unit (unit) required by federal welfare reforms.
  - Δ Requires the registry and unit to maintain records in state child support enforcement cases (IV-D cases) and other cases established or modified on or after October 1, 1998.
  - Δ Mandates the statewide integrated child support enforcement system to be part of the registry and unit.
  - Δ Authorizes the child support agency to enter into contracts and cooperative agreements for establishing and operating the registry and unit.

### *Directory of New Hires*

- Δ Establishes a state directory of new hires (directory).
  - Δ Requires the child support agency, in cooperation with the Texas Workforce Commission, to develop the directory to which employers will be required to report new hires as of October 1, 1998.
  - Δ Authorizes the child support agency to enter into contracts and cooperative agreements for establishing and operating the directory.

### *Medical Support Orders*

- Δ Requires an insurer to provide coverage for a covered child who resides outside the insurer's service area, and whose coverage under a policy or plan is required by a medical support order, that is comparable coverage to that provided to other dependents under the policy or plan.
- Δ Requires the commissioner of insurance to adopt rules no later than January 1, 1998, to define "comparable coverage" in a manner consistent with federal law and that meet requirements to maintain federal Medicaid funding.

**Medical Cost Reimbursement - S.B. 333**

*by Senator Harris*

*House Sponsor: Representative Thompson*

- △ Allows a possessory conservator of a child to seek medical cost reimbursement directly from the managing conservator's insurer or group hospital plan.

**Uniform Interstate Family Support Act - S.B. 426**

*by Senator Harris*

*House Sponsor: Representative Goodman*

- △ Amends Texas' Uniform Interstate Family Support Act to comply with requirements of the Personal Responsibility and Work Opportunity Reconciliation Act in order to retain the federal subsidy for child support enforcement.

**Privatization of Child Support Collection - S.B. 1161**

*by Senator Carona*

*House Sponsor: Representative Hill*

- △ Allows Dallas County, through its commissioners court or its domestic relations office, if any, to contract with a private entity to enforce, collect, receive, and disburse child support and related payments.
- △ Requires the commissioners court or the domestic relations office to include all appropriate terms and conditions in the contract that it deems reasonable to secure the services of the private entity.
- △ Authorizes the commissioners court, in order to pay for the privatized program, to assess and collect:
  - △ a reasonable fee when a divorce or custody suit is filed;
  - △ a \$3 per month fee for collecting the child support; and
  - △ a \$4 per month late fee, if the child support is not paid on time.
- △ Prohibits the commissioners court from charging the \$3 per month fee if the ordered child support is less than \$100 per month.
- △ Authorizes the attorney ad litem to call, examine, or cross-examine witnesses.

## Counseling for Children of Divorce - S.B. 1384

*by Senator Haywood, et al.*

*House Sponsor: Representative Hirschi*

- △ Authorizes the court, during a divorce action, to require the parties to receive counseling on issues that confront children of divorce.

## Child Support - S.B. 1594

*by Senator Haywood*

*House Sponsor: Representative Hirschi*

- △ Clarifies certain Family Code provisions relating to enforcement and collection of child support, and refines provisions to track federal provisions set forth in federal welfare reform.
- △ Requires the clerk of the court to collect certain fees when the suit is filed, and send the fees to the domestic relations office.
- △ Authorizes a child support enforcement action which names a defendant to be used by the Texas Crime Information Center and the National Crime Information Center.
- △ Authorizes the terms and conditions of community supervision to include the requirement that the respondent pay child support and any child support arrearages.
- △ Provides that interest accrues from the date the judge signs the order for the judgment, unless the order contains a statement that the order is rendered on another specific date.
- △ Adds a friend of the court to the list of persons authorized to file a request for an order or writ of withholding.
  - △ Authorizes, rather than requires, the filing of an action, by a friend of the court, to enforce, clarify, or modify a child support or custody order.
- △ Authorizes a domestic relations office to hire or contract for attorney's services to assist the office in providing child support enforcement services.
- △ States that the provisions on developing a statewide integrated system for child support and medical support enforcement do not limit the ability of the Title IV-D agency to enter into an agreement with a county for the provision of child support enforcement services.

- △ Requires the Title IV-D agency to distribute a child support payment received by the agency from an employer within two working days after the date the agency receives the payment.
- △ Makes it a Class B misdemeanor if the child support check is unable to be cashed because of a deficiency in the paying account.

### **Administrative Fee for Wage Garnishment - H.B. 598**

*by Representative Shields*

*Senate Sponsor: Senator Wentworth*

- △ Authorizes an employer to deduct a monthly administrative fee from an employee's disposable earnings, in addition to the amount required to be withheld for child support. Limits the fee to actual administrative cost or \$10, whichever is less.

### **Missing Children - H.B. 1092**

*by Representatives Serna and Naishtat*

*Senate Sponsor: Senator Shapleigh*

- △ Expands the definition of "missing child" to include a child taken or retained in violation of the terms of a court order for possession of, or access to, the child.
- △ Provides that a local law enforcement agency, upon locating a missing child, may take possession of that child, unless the child is subject to the continuing jurisdiction of a district court, and shall deliver the child to a person entitled to possession. If that person is not immediately available, the child shall be delivered to the Department of Protective and Regulatory Services.

### **Presumed Biological Father - H.B. 1751**

*by Representative West*

*Senate Sponsor: Senator Bivins*

- △ Adds a person related within the second degree of consanguinity to the biological mother of the child, if the biological mother of the child is deceased, to the list of people allowed to contest the presumption that a man is the biological father of a child.

## **Visitation Rights of Grandparents - H.B. 2005**

*by Representative Thompson, et al.*

*Senate Sponsor: Senator Duncan*

- △ Requires the court to order reasonable visitation rights to either maternal or paternal grandparents of a child when the grandparent meets certain criteria, and access is in the best interest of the child.

## **Court Ordered Family Counseling - H.B. 2215**

*by Representative Staples*

*Senate Sponsor: Senator Madla*

- △ Establishes specific criteria for a person who may provide family counseling as ordered by the court in child custody cases. Requires the counselor to be a mental health professional and meet other criteria.
- △ Authorizes the court to appoint a person the court believes is qualified to conduct the counseling, if a qualified mental health professional is not available.

## **Obtaining Possession or Access to a Child - H.B. 2227**

*by Representative McReynolds*

*Senate Sponsor: Senator Harris*

- △ Allows a court to order additional periods of possession or access to a child to compensate for denial of periods of required possession or access and requires the periods to be of the same type and duration as the denied periods. Entitles the person who is denied access to decide the time for the additional possession or access, which must occur within one year of the time denied.

## **Interviewing a Child in a Custody Suit - H.B. 2488**

*by Representative Staples*

*Senate Sponsor: Senator Shapiro*

- △ Lowers the minimum age from 12 to 10 at which a child is required to be interviewed in a suit in which the issue of managing conservatorship is contested, if requested by a party to the suit.
  - △ Authorizes the court to interview a child under the same circumstances.

**Attorneys Ad Litem for Children - H.B. 2526**

*by Representative Williams*  
*Senate Sponsor: Senator Ogden*

- △ Requires an attorney ad litem appointed to represent a child in a parental termination suit to investigate the facts of the case, obtain and review the child's relevant medical, psychological, and school records, and interview all parties to the suit.

**False Allegations of Child Abuse - H.B. 2615**

*by Representative Mowery*  
*Senate Sponsor: Senator Moncrief*

- △ Authorizes the court to include in a final order of a divorce or custody suit in which a party alleges child abuse or neglect, a finding on whether the party who made the abuse or neglect allegation knew that the allegation was false.
  - △ Authorizes the court to impose any civil sanction permitted under law, for false allegations.
- △ Requires the court to impose a civil penalty not to exceed \$500 on the party found to have made a false allegation of child abuse or neglect in a case affecting the parent-child relationship.

**Inmate Trust Fund Withdrawal - H.B. 3101**

*by Representative Jesse Jones*  
*Senate Sponsor: Senator Carona*

- △ Authorizes a court to require the withdrawal of money from an inmate's trust fund account to reimburse the Texas Department of Human Services for financial assistance to provide for health needs of an inmate's child.

**Child-Support Enforcement by the Office of the Attorney  
General - H.B. 3281**

*by Representative Goodman, et al.*  
*Senate Sponsor: Senator Harris*

*Review of Child Support Enforcement*

- △ Provides for a sunset review of the Office of the Attorney General's (OAG) involvement in matters related to child support enforcement, and requires the report to be given to the 76th Legislature.

- Δ Requires the Sunset Advisory Commission (commission) to select an independent firm with experience in evaluating government programs to conduct a comprehensive analysis of, and to make recommendations to the commission concerning the structure, efficiency, and effectiveness of OAG's involvement in matters relating to child support enforcement.
- Δ Requires the independent firm to consider and make recommendations whether child support enforcement should remain in the OAG, be privatized, or be transferred to an independent agency.
- Δ Requires the OAG to pay for the costs of the analysis by the firm.
- Δ Requires the State Council on Competitive Government (council) to:
  - Δ establish an initiative called "Kids Can't Wait" to increase child support enforcement;
  - Δ identify child support enforcement functions performed by the Title IV-D agency that may be competitively bid, and to make recommendations regarding competitive bidding of child support enforcement functions that are identified, after consulting with the Title IV-D agency;
  - Δ establish guidelines for referral of child support enforcement cases to a contractor;
  - Δ consider the benefits of the state's participation in an electronic parent locator network or similar national service designed to locate parents who owe child support; and
  - Δ study the feasibility of cost recovery options in child support collection actions for children who do not receive public assistance.

## *Administration and Enforcement*

- Δ Requires the person appointed by the attorney general as the person responsible for managing the Title IV-D agency's child support enforcement duties to report directly to the attorney general.
- Δ Limits the use of appropriations made to the Title IV-D agency for child support enforcement to be only for the purposes for which the money was appropriated.

- △ Requires the Title IV-D agency, as part of the development of a statewide integrated system for child support and medical support enforcement, to establish a pilot program to improve the efficiency of court processing of family welfare cases.
- △ Requires the Title IV-D agency to place child support information on the Internet to assist the public in child support matters.
- △ Authorizes the Title IV-D agency to pay a contingency fee in a contract or agreement between the agency and a private agency or individual for child support enforcement functions.
- △ Requires the Title IV-D agency to develop a program to identify publicly certain child support obligors who are delinquent in the payment of child support.
- △ Authorizes the Title IV-D agency to offer a reward to an individual who provides information to the agency that leads to the collection of child support owed by an obligor who is delinquent in paying support.
- △ Authorizes, rather than requires, the Title IV-D agency or a court to issue an order suspending a license of an obligor with overdue child support.
- △ Requires the state case registry to provide information on the written request of a custodial parent whose case is in the state registry, but the Title IV-D agency is not providing enforcement services; or whose case would not be included under federal law, but who has applied to be in the registry.
- △ Requires the Department of Public Safety to include in each notice sent to a driver's license holder a statement advising a holder who is delinquent in the payment of child support to make satisfactory arrangements or face possible driver's license suspension.
- △ Updates child support lien and foreclosure provisions.

## **Controlling Fraud in Medicaid and Other Welfare Programs - S.B. 30**

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Maxey*

- △ Requires the Texas Department of Human Services (DHS) to take a number of steps to improve the detection and enforcement of fraud under the food stamp and financial assistance program. These include:
  - △ improving the time it takes to establish an overpayment claim;
  - △ using the telephone to collect reimbursement from a person who received a benefit in error;
  - △ participating in the Federal Tax Refund Offset program;
  - △ keeping records of fraud cases referred for prosecution;
  - △ using a computer system to compare state information with federal immigrant and foreign visitor information to prevent people from illegally receiving public assistance benefits;
  - △ identifying Medicaid recipients who are eligible to receive similar assistance under Medicare and analyzing claims to ensure that allowable Medicare payments are sought first, and matching Medicaid claims to determine if other programs should appropriately pay the claims; and
  - △ identifying each Medicaid service under which the state is eligible for enhanced federal reimbursement and ensuring that the state receives the highest reimbursement.

### ***Fraud Detection and Prevention***

- △ Requires the Health and Human Services Commission (HHSC) to set a minimum goal for DHS recovering a percentage of benefits that were granted in error.
  - △ Requires reduction in general revenue appropriation if DHS failed to meet its goal.
- △ Allows HHSC to grant an award to an individual who reports fraud or abuse of funds in Medicaid.

- Δ Makes HHSC, through a new office of investigations and enforcement office, responsible for investigating and enforcing fraud in health and human services.
  - Δ Requires HHSC and the office of the attorney general (OAG) to take a number of joint actions on Medicaid fraud. These include: signing a memorandum of understanding on developing and implementing joint written procedures for processing fraud cases; preparing reports on fraud detection and prosecution activities; signing a memorandum of understanding for HHSC to provide investigative support on certain cases, and cooperating with entities participating in "Operation Restore Trust," a federal fraud detection program.
  - Δ Prohibits HHSC and the OAG from collecting investigation and attorney's fees unless the state gets a penalty, restitution, or other reimbursement. Requires HHSC to refer cases to local prosecuting attorneys if the office of the attorney general fails to act within 30 days.
  - Δ Requires HHSC to develop a fraud detection training program.
  - Δ Requires HHSC to use learning or neural network technology to identify and deter fraud in Medicaid.
- Δ Establishes the Medicaid and Public Assistance Fraud Oversight task force to assist HHSC in improving the efficiency of fraud investigations and collections.
- Δ Requires a number of actions and techniques by HHSC to improve fraud detection and prevention. These include:
  - Δ compiling statistics on fraud, publicizing successful fraud prosecutions prevention programs, and ensuring that a toll-free number is available for reporting fraud;
  - Δ developing a cost-effective method of identifying applicants for public assistance in Texas counties bordering other states who are already receiving assistance in those states; and
  - Δ verifying automobile information used in determining eligibility and establishing a computer matching system with the Texas Department of Criminal Justice (TDCJ) to prevent someone in prison from illegally receiving public assistance benefits.

- Δ Consolidates staff and transfers responsibilities to HHSC from DHS' utilization and assessment review function and TDH's claims review and analysis group and policy and data analysis group.
- Δ Requires certain actions of DHS in fraud detection and enforcement. These include:
  - Δ using private collection agents as an additional method to collect reimbursements for benefits granted in error;
  - Δ studying the impact of expedited food stamp delivery on fraud; and
  - Δ studying the feasibility of collecting benefits granted in error by garnishing wages or filing property liens.
- Δ Requires advance authorization for ambulance transportation except for emergencies.
- Δ Requires actions to ensure that a child's durable medical equipment provided under Medicaid is as prescribed, fits, and that the family is instructed in its use.
- Δ Provides for surety bonds for each provider of medical assistance in a type of service that has demonstrated significant potential for fraud and abuse.
- Δ Authorizes certain agencies to obtain criminal history records relating to a Medicaid provider or a person who applies as a provider.
- Δ Requires certain information and other contractual, disclosure, and audit provisions from managed care organizations that contract with Medicaid.

### *Fraud Enforcement*

- Δ Requires HHSC to establish a pilot program for conducting random on-site reviews of persons who apply to provide Medicaid health care services.
- Δ Requires HHSC to develop a new provider contract for health care services that contains provisions designed to strengthen HHSC's ability to prevent Medicaid fraud.
- Δ Requires TDH to develop a competitive process for obtaining durable medical equipment.
- Δ Requires TDH to conduct an automated review of physician, laboratory, and radiology services to identify improper billing practices.

- △ Establishes administrative penalties for false claims or failure, to provide health services required under contract.
- △ Provides for deductions from lottery winnings for a person who has been determined to be delinquent in reimbursing DHS for errors in food stamp or financial assistance.
- △ Provides that it is unlawful for managed care organizations contracting for Medicaid to fail to provide required Medicaid health care services, to fail to provide required information, to engage in fraudulent activity involving enrollment of a person, or to obstruct an investigation by the attorney general.
  - △ Increases civil penalties for violations and adds special penalties for incidents involving children, elderly or disabled persons.
  - △ Requires certain agency directors to suspend or revoke a provider agreement and other permits for a person who is found liable under this section. Bars persons found liable from providing Medicaid services for 10 years or longer.
- △ Authorizes a person to bring a civil action under certain provisions relating to Medicaid fraud.
- △ Provides for actions by a person who is discharged or discriminated against due to a lawful act under certain provisions on Medicaid fraud.
- △ Establishes a range of criminal offenses (misdemeanors and felonies) for unlawful acts under certain provisions on Medicaid fraud, including revocation of certain health professional licenses for felony convictions.
- △ Provides for suspension of drivers' licenses or recreational licenses issued by the Parks and Wildlife Department for failure to reimburse DHS for an error in food stamps or financial assistance in excess of \$250.

## **Increased Penalties for Medicaid Fraud - H.B. 1637**

*by Representative Alvarado  
Senate Sponsor: Senator Carona*

- △ Increases civil penalties if a false statement or representation under a Medicaid claim results in injury to an elderly person, a disabled person, or a person younger than 18 years of age.
  - △ Bars a person found liable for this action from providing or arranging for Medicaid health care services for 10 years.

- Δ Authorizes a period of ineligibility longer than 10 years to be provided by rule.
- Δ Exempts a person who operates a nursing facility from both Medicaid ineligibility provisions.
- Δ Permanently prohibits a person from providing or arranging for Medicaid health care services if the person is convicted of Medicaid fraud, and the person's fraudulent act results in injury to an elderly person, a disabled person, or a person younger than 18 years of age.
- Δ Makes a person who commits certain unlawful acts liable to the state for an increased civil penalty for each act that results in injury to an elderly person, a disabled person, or a person younger than 18 years of age.
- Δ Requires commissioners or directors of certain human services or health care regulatory agencies to suspend or revoke provider agreements, permits, licenses, or certifications, if a person has been found liable for civil remedies under Medicaid fraud.
  - Δ Exempts a person who operates a nursing facility from mandatory suspension or revocation, but gives the commissioners or directors authority to suspend or revoke provider agreements, permits, licenses, or certifications.
- Δ Prohibits a person found liable for civil remedies under Medicaid fraud from providing or arranging for Medicaid health care services for 10 years.
  - Δ Exempts a person who operates a nursing facility from both Medicaid ineligibility provisions.
- Δ Authorizes professional disciplinary actions under applicable licensing law or rules for a person who commits an unlawful act.
- Δ Requires agencies to request a waiver or authorization from a federal agency if necessary for implementing these provisions, and authorizes a delay in implementing provisions if a federal waiver is required.

**DHS Fraud Prevention and Detection - H.B. 2123**

*by Representatives Maxey and Naishtat*

*Senate Sponsor: Senator Moncrief*

- △ Requires the Texas Department of Human Services (DHS) to develop and implement policies and procedures designed to improve DHS administered entitlement programs that use electronic benefits transfer (EBT) cards.
- △ Requires DHS and the comptroller to coordinate their efforts to cross-train staff whose duties include fraud prevention and detection.
- △ Requires local law enforcement agencies that seize an EBT card to immediately notify DHS, and return the card.
- △ Requires the EBT system operator and installer to report to DHS and the United States Department of Agriculture suspicious activity relating to a retailer's participation in the food stamp program.
- △ Requires DHS to compare a retailer's food stamp sales volume with the retailer's total food sales to determine whether the retailer is eligible to receive free point-of-sale terminals.
- △ Requires DHS, through the use of a computerized matching system, to at least semiannually compare department information relating to food stamp transactions with comparable information from the comptroller and other appropriate state agencies. Requires all entities to take necessary measures to keep information confidential.
- △ Requires DHS to close certain accounts which have not been used by the account holder during the preceding 12 months.

## Oversight of Treatment Methods Used in Mental Health Facilities - S.B. 264

*by Senator Zaffirini*

*House Sponsor: Representative Berlanga*

- Δ Transfers the responsibilities of the Treatment Methods Advisory Committee to the Texas Board of Mental Health and Mental Retardation.
- Δ Requires the board to report annually to the governor, lieutenant governor, speaker of the house, the Senate Health and Human Services Committee and the house Public Health Committee regarding its findings and recommendations on treatment methods used in mental health facilities.

## Certain Mental Health Facility Records - S.B. 443

*by Senator Moncrief, et al.*

*House Sponsor: Representative Naishtat*

- Δ Authorizes a former mental health patient, who was unnecessarily admitted to a mental health facility between January 1, 1986 and December 31, 1993, to bring suit for an order that all records related to the individual's admission or treatment at certain mental health facilities be sealed or destroyed.
- Δ Prohibits former mental patients who successfully petition a court for an order from filing a lawsuit against a facility or health care provider related to an event or activity that formed the basis of a record subject to the court's order.
- Δ Prohibits the admissibility of a finding made under this chapter against any party in litigation to establish liability for damages, expenses, or other relief as an alleged result of any treatment or admission.
- Δ Creates an offense if a person who knows about the admission and the court order intentionally releases, disseminates, or publishes a record or index reference subject to that order or knowingly fails to destroy, seal, or present to the court a record.
- Δ Provides that this does not prohibit an attorney or insurer of a provider or patient from retaining or communicating confidentially about a privileged document to discuss an actual or potential claim or issue.

## Advance Directives for Mental Health Treatment - S.B. 972

*by Senator Harris, et al.*

*House Sponsor: Representative Coleman*

- △ Authorizes an adult who is not incapacitated to execute a declaration for mental health treatment, and requires a physician or other health care provider to act in accordance with the declaration when the person has been found to be incapacitated.
  - △ Provides that certain health care providers are not subject to criminal or civil liability and have not engaged in professional misconduct for an act or omission, if done in good faith under the terms of a declaration for mental health treatment.
  - △ Provides that certain providers, plans, or insurers may not charge different rates, require a person to execute a declaration, or refuse care or discharge a person because the person has executed a declaration for mental health treatment.

## Intermediate Care Facilities for the Mentally Retarded - S.B. 1248

*by Senator Madla, et al.*

*House Sponsor: Representative Coleman*

- △ Provides for the development, establishment, and enforcement of standards relating to services provided to individuals residing in intermediate care facilities for the mentally retarded (ICF-MR). Provides for the construction, maintenance, and operation of facilities which promote quality in the delivery of services and treatment for these individuals.
- △ Provides an exemption from these standards for certain church-operated facilities providing services to individuals with mental retardation or related conditions.
- △ Authorizes the Texas Department of Human Services (DHS) to accept and use any federal money for administrative expenses.

### *Quality of Care*

- △ Prohibits ICF-MR facilities from restricting a resident or employee from communicating in the person's native language with another resident or employee to acquire or provide care, training, or treatment.

- △ Requires each ICF-MR facility to implement and enforce standards for rights of residents.
- △ Requires DHS to adopt rules related to the administration and implementation of ICF-MR facilities. Requires DHS to consult and coordinate, whenever possible, with other state and local agencies.
- △ Requires ICF-MR facilities to notify DHS within 30 days and pay a \$20 administrative fee upon hiring a new administrator.
- △ Prohibits ICF-MR facilities from receiving monetary or other remuneration from a person or agency that furnishes services or materials to the facility or its residents for a fee.
- △ Authorizes the Texas Board of Human Services (board) to adopt, publish, and enforce minimum standards for ICF-MR facilities.
- △ Requires ICF-MR facilities to comply with adopted fire safety requirements.
- △ Requires DHS to adopt rules relating to the administration of medication in ICF-MR facilities. Requires an annual medical examination for each resident. Authorizes facilities to maintain a supply of controlled substances.
- △ Authorizes ICF-MR facilities to provide respite care for an individual diagnosed with mental retardation or related condition without regard to whether the individual is eligible to receive intermediate care services under federal law. Authorizes the board to adopt rules on respite care provided by ICF-MR facilities.

### *Licensing*

- △ Requires a person or governmental unit to be licensed in order to establish, conduct, or maintain an ICF-MR facility. Sets forth license requirements.
- △ Requires ICF-MR facilities to post in a readily available public area the facility license, a sign specifying complaint procedures, notice of availability of the inspection and related reports at the facility, and a summary of the most recent inspection report.
- △ Authorizes DHS or its designee to make any inspection, survey, or investigation that it considers necessary and enter the premises of a ICF-MR facility at any reasonable time in accordance with board rules.

- Δ Makes it a Class B misdemeanor for a person who discloses an unannounced inspection.
- Δ Requires DHS to provide a validation team to ensure that licensing surveys are done fairly and consistently throughout the state.

## *Enforcement*

- Δ Requires DHS to suspend an ICF-MR facility's license or order an immediate closing of part of the facility if certain conditions are found to exist. Requires the board, by rule, to provide for the placement of residents.
- Δ Authorizes DHS to obtain a temporary restraining if a violation of the standards creates an immediate threat to the residents.
- Δ Establishes criminal penalties for violating license requirements, civil penalties for violating rules which threaten the health and safety of a resident, and administrative penalties for violating rules established through statute or by DHS.
- Δ Establishes guidelines for the appointment of a trustee to assume the operations of an ICF-MR facility. Establishes entitlement of a trustee to a reasonable fee as determined by the court.
- Δ Authorizes DHS to collect an additional fee to provide emergency assistance to ICF-MR facilities. Requires a facility receiving emergency assistance to reimburse DHS, including interest.
- Δ Requires ICF-MR facilities to provide notification to residents and each resident's nearest relative, in the event of a temporary or permanent closing, whether voluntary or involuntary, within a reasonable time before the closing.

## *Abuse and Neglect*

- Δ Requires a person, including an owner or employee of an ICF-MR facility, to report a case of abuse or neglect if he or she has cause to believe it is occurring. Establishes a criminal penalty if a person knowingly fails to report a case of abuse or neglect. Authorizes the submission of anonymous reports. Provides immunity from civil or criminal liability for a person who reports an act of abuse or neglect, unless it is done in bad faith, maliciously, or recklessly.
- Δ Requires DHS to maintain a central registry, in Austin, of reported cases of resident abuse or neglect.

- △ Requires DHS to make an investigation and report after receiving either the oral or written report of abuse or neglect. Requires information used or developed in an investigation to be kept confidential.
- △ Prohibits ICF-MR facilities from retaliating against an employee or resident for reporting a case of abuse or neglect. Establishes requirements for bringing suit against a facility and penalties for facilities which are found to have retaliated against an employee or resident.
- △ Requires ICF-MR facilities to report to DHS the death of a facility resident. Requires DHS to collect data and develop a report to determine patterns and trends among persons with mental retardation or related conditions and in specific facilities. Requires facilities to make certain historical statistics available to all applicants.

## **Regulation of Electroconvulsive Therapy - S.B. 1309**

*By Senator Patterson*

*House Sponsor: Representative Thompson*

- △ Requires the signed copy of the consent form to be made part of the patient's clinical record.
- △ For a patient 65 years of age or older, requires a hospital, facility, or physician administering the procedure to comply with additional requirements before the therapy is performed.

## **Licensing of Professional Counselor - H.B. 699**

*by Representative Coleman*

*Senate Sponsor: Senator Barrientos*

- △ Provides that the Licensed Professional Counselor Act does not apply to persons certified to perform counseling services consistent with state law, their training, and any code of ethics and who do not use the title or hold themselves out as licensed counselors.
- △ Requires applicants under the Licensed Professional Counselor Act to meet certain work requirements for licensure.

## **Court-Ordered Mental Health Services - H.B. 1039**

*By: Representative Naishtat*

*Senate Sponsor: Senator Moncrief*

- △ Requires the county or district attorney to provide whether inpatient or outpatient care will be recommended for court-ordered mental health services, before the hearing, if a request is made.

- △ Requires filing of a statement, if outpatient treatment is recommended, on the availability of the proposed mental health services through either the local mental health authority or another mental health services provider and if sufficient resources to provide the necessary services are available.
- △ Sets forth requirements under which a judge may order temporary or extended inpatient mental health services or outpatient mental health services.

## **Health Coverage for Serious Mental Illnesses - H.B. 1173**

*by: Representative Coleman, et al.  
Senate Sponsor: Senator Ellis, et al.*

- △ Requires certain group health benefit plans to provide treatment coverage of a serious mental illness for at least 45 inpatient days and 60 outpatient visits each calendar.
- △ Prohibits a health benefit plan from including a lifetime limit on the number of inpatient days or outpatient visits covered under the plan.
- △ Requires the same amount of limits, deductibles, and coinsurance factors for serious mental illness as for physical illness.
- △ Authorizes a health benefit plan to refuse coverage for serious mental illness if a small employer rejects the coverage.
- △ Provides that requirements on health benefit plans do not include providing coverage for treatment resulting from the use of a controlled substance or marihuana.

## **Regulation of Psychologists - H.B. 1719**

*By Representative Coleman  
Senate Sponsor: Senator Galloway*

- △ Requires the Texas State Board of Examiners of Psychologists to adopt rules on the activities and services that may be provided by a provisional license holder and certificate holders.

## Community Mental Health and Mental Retardation Centers Act - H.B. 1734

*by Representative Delisi*  
*Senate Sponsor: Senator Moncrief*

- Δ Provides regulations regarding the monitoring of community mental health and mental retardation centers and local mental retardation authorities.
- Δ Authorizes the Texas Department of Mental Health and Mental Retardation (MHMR), by a case-rate or capitated arrangement, to disburse to a local mental health and mental retardation authority (local authority) federal and state funds to be spent for community mental health and mental retardation services and chemical dependency services.
  - Δ Requires the Texas Board of Mental Health and Mental Retardation to direct the MHMR commissioner to appoint a committee to develop a plan, by September 1, 1998, to make provisions regarding the number, selection of members, and scope of responsibilities of local authorities.
- Δ Requires MHMR to prescribe procedures for financial and program audits of community centers and to evaluate the fiscal impact of the financial and program audits and submit reports to the legislature by December 1, 1999.
- Δ Requires MHMR to review the program quality and program performance results of each local authority in accordance with a risk assessment and evaluation system appropriate to contract agreements.

**Prioritizing Investigations - S.B. 115**

*by Senator Zaffirini*

*House Sponsor: Representative Maxey*

- Δ Authorizes the Texas Department of Protective and Regulatory Services (DPRS) to prioritize its investigations in MHMR facilities and community centers.

**Regulation of Orthotists and Prosthetists - S.B. 291**

*by Senator Patterson*

*House Sponsor: Representative Haggerty*

- Δ Establishes the Texas Board of Orthotics and Prosthetics (board) as part of the Texas Department of Health (TDH). Sets forth powers and duties of the board.
- Δ Prohibits the practice of prosthetics or orthotics without a license issued by the board. Sets forth license requirements.

**Department of Protective and Regulatory Services/Sunset - S.B. 359**

*by Senator Brown*

*House Sponsor: Representative Gray, et al.*

- Δ Changes general provisions regarding the Department of Protective and Regulatory Services (DPRS) in response to review by the Sunset Commission; updates child care provisions, expedites the involuntary termination of parental rights in cases of abuse and neglect; requires DPRS to develop a permanency plan for each child under its conservatorship; expedites beginning the adoption process; promotes judicial efficiency in termination and adoption cases; and encourages closer cooperation among child advocacy organizations in the promotion of adoption.
- Δ Continues DPRS and sets it for review in the year 2009, as recommended by the Sunset Advisory Commission.

***Child Care Provisions***

- Δ Defines “children who are related to the caregiver” to include children, grandchildren, siblings, great-grandchildren, nieces, or nephews of the caregiver.
  - Δ Exempts a home which gives care exclusively to children who are related to the caregiver from regulation as a registered family home.

- Δ Authorizes DPRS to inspect registered family homes, in addition to other regulated facilities, as necessary.
  - Δ Requires DPRS to review the results of the inspection with the facility and give the facility an opportunity to respond to the inspection.
  - Δ Requires DPRS to coordinate child care facility inspections performed by an agency or subdivision of the state to eliminate redundant inspections.
- Δ Requires DPRS to:
  - Δ promulgate minimum training standards for regulated facilities, including recognizing symptoms of child abuse and neglect.
  - Δ regulate assessment services to determine the placement needs of a child who requires substitute care.
  - Δ create a central registry containing relevant inspection information on licensed day-care centers, licensed group day-care homes, and registered family homes from other state agencies and political subdivisions, if feasible.
    - Δ Requires the registry to be available to state and local government entities for enforcement purposes.
    - Δ Requires DPRS to search the central registry of reported cases of child abuse or neglect, before issuing or renewing a license, registration, or certification.
  - Δ make background and criminal history checks for directors, owners and operators of child-care facilities and registered homes.
- Δ Provides penalties for license and registration violations by child care facilities.

### *Care for the Elderly or Disabled*

- Δ Updates provisions regarding injury, abuse, and neglect of the elderly and disabled in relation to guardians or attorneys ad litem, priorities of investigation, interaction between DPRS and the Texas Department of Mental Health and Mental Retardation.

## *Investigations of Abuse and Neglect*

- △ Expands the grounds upon which parental rights can be terminated to include:
  - △ the adjudication of a parent on laws of another state substantially equivalent to Texas' laws on endangering a child;
  - △ a finding that the child has been constructively abandoned as evidenced by a lack of regular or significant contact between the child and parent for six months; or
  - △ the failure of the parent, for nine months, to comply with court ordered actions supporting reunification of a parent and a child in DPRS custody.
- △ Requires the DPRS to prepare and disseminate statistics by county certain child abuse or neglect reports.
- △ Increases the penalty for the offense of making a false child abuse or neglect report from a Class B to a Class A misdemeanor.
- △ Requires DPRS, upon request, to remove from its records information about alleged abuse and neglect that has been found not to have been committed.
- △ Requires DPRS to enter into pilot program agreements, under which the sheriff or law enforcement agency shall conduct investigations of reports or abuse.
- △ Requires DPRS to:
  - △ develop a flexible response system in abuse and neglect investigations;
  - △ begin locating qualified adoptive parents when DPRS decides to seek termination of parental rights;
  - △ monitor foster parent performance and sets forth provisions required in contracts for substitute care services; and
  - △ consider placing the child in the home of the child's noncustodial parent.
- △ Requires interview with a child who is an alleged victim of physical or sexual abuse to be audiotaped or videotaped, unless the investigating agency determines otherwise for good cause.

## *Court Proceedings*

- △ Expands the list of the attorneys able to represent DPRS in court in family law cases, and allows DPRS to contact for the attorneys' services.
- △ Prohibits the court from proceeding to final trial in a suit to terminate the parent-child relationship while a criminal trial is pending for a child directly related to the grounds upon which termination is sought, unless the court determines proceeding is in the best interest of the child.
- △ Authorizes the court to appoint a master for a court handling child protection cases, in order to process cases within a reasonable period of time or to accelerate the trial schedule to result in a final order, if the court finds probable cause that certain crimes have been committed against the child.
- △ Requires the court to inform each parent, in open court, that his or her parental rights and duties may be subject to restriction or termination.
- △ Requires DPRS to develop a permanency plan for each child under its conservatorship.
- △ Requires a child to attend permanency hearings unless excused by the court.
- △ Requires the court to dismiss a suit terminating parental rights the Monday after the first anniversary DPRS was given conservatorship of the child, unless an extension is granted. Limits an extension to 180 days.
- △ Notwithstanding the time limits, authorizes DPRS to retain jurisdiction over the child in the best interest of a child. Authorizes a final order naming DPRS managing conservator without terminating parental rights. Requires the case to be reviewed every six months.
- △ Throughout the suit, requires DPRS to keep interested parties informed of hearings and case status, including the child's attorney ad litem and volunteer advocate.

## *Substitute Care*

- △ Requires the Health and Human Services Commission (HHSC) to adopt result-oriented standards for substitute care services for children.
- △ Authorizes HHSC commissioner to establish caseload standards and other standards relating to caseloads, after considering recommendations of the caseload standards advisory committee. Establishes provisions for purchase of substitute care for children, through a competitive bidding process.

## Regulation of Pharmacies and Pharmacists - S.B. 609

*by Senator Madla*

*House Sponsor: Representative Van de Putte*

- △ Prohibits an officer, employee, or paid consultant of a Texas trade association in the field of health care and their spouses from being a licensed pharmacist member of the Texas State Board of Pharmacy or an employee of the board.
- △ Adds new provisions for pharmacy technicians, including allowing the board to set standards for training programs for pharmacy technicians.
- △ Prohibits a person from operating a pharmacy unless he or she obtains a license to operate a pharmacy.
- △ Provides civil penalties for unlawfully operating a pharmacy or unlawfully engaging in the practice of pharmacy.
- △ Deletes the requirement for a professional undergraduate degree and allows the board to define the requirement for a professional practice degree to practice pharmacy and expands grounds for disciplinary actions against a license holder or a person seeking a pharmacy license.
- △ Prohibits a store or business from advertising as a pharmacy or providing pharmacy services unless the facility is a licensed pharmacy.
- △ Provides that drug product selection does not apply to the refill of a prescription for a narrow therapeutic index drug and that a prescription for a narrow therapeutic index drug may be refilled only by using the same drug product last dispensed.

## Administrative Penalties for Certain Licensed Professions - S.B. 702

*by Senator Moncrief*

*House Sponsor: Representative Hirschi*

- △ Allows the imposition of administrative penalties by the Texas Department of Health (TDH) for violations to regulations of massage therapists and establishments, respiratory care practitioners, medical radiologic technologists, and dispensing opticians.

## Purchasing by Health and Human Services Agencies - S.B. 1066

*by Senator Zaffirini*

*House Sponsor: Representative Delisi*

- △ Requires each health and human services agency (agency) to acquire goods and services by any procurement method approved by the Health and Human Services Commission (HHSC) that provides the best value to the agency. Requires HHSC to adopt rules and procedures for the acquisition of goods and services, and coordinate the procurement practices of all health and human services agencies. Authorizes established procurement methods to meet the state competitive bidding requirements.
- △ Requires each applicable agency to notify the state auditor and consult with and receive approval from HHSC before considering factors other than price and meeting specifications for goods or services in excess of \$100,000.
- △ Authorizes a public disproportionate share hospital to acquire goods and services through the HHSC procurement process.
- △ Authorizes the state auditor or Texas Department of Health (TDH) to audit the public hospital's acquisitions of goods and services to the extent that state or federal money is used.
- △ Authorizes a state or local governmental entity to allow a public or private hospital to purchase goods or services by participating in an entity's contracts.
- △ Authorizes a public or private hospital to purchase goods or services through a group purchasing program. Requires TDH to adopt rules to allow a public or private hospital to make purchases through group purchasing programs.
- △ Requires a state agency or local unit of government that expends funds received by TDH, unless otherwise noted, to use a procurement method approved by HHSC that provides the best value. Authorizes TDH to allow a state agency, local unit of government, or entity that expends funds received by TDH to participate in a TDH contract or group purchasing program.
- △ Authorizes a state agency, local agency, local mental health authority, or local mental retardation authority that expends public money for mental health or mental retardation goods or services to participate in a TDH contract or group purchasing program.

**Home and Community Support Services - S.B. 1247**

*by Senators Madla and Moncrief*

*House Sponsor: Representative Berlanga*

- △ Requires the Texas Department of Health (TDH) to conduct criminal background checks on the owner, administrator, and chief financial officer of all home and community support agencies that are not state owned or operated. Requires TDH to evaluate and consider all information collected during the application process.
- △ Requires TDH to find that a home and community support services agency which provides only long-term care Medicaid waiver services that are publicly funded has satisfied licensing requirements if the agency is certified by another state agency with health and safety standards. Prohibits TDH from assessing an administrative penalty against these agencies.
- △ Requires TDH to find that a home and community support services agency that provides home health, hospice, or personal assistance services only to persons enrolled in Texas Department of Mental Health and Mental Retardation (MHMR) programs has satisfied licensing requirements if it meets MHMR standards. Prohibits TDH from assessing an administrative penalty against these agencies.
- △ Requires TDH to provide an analysis of enforcement actions against home and community support agencies at each meeting of the Home and Community Support Services Advisory Council.
- △ Authorizes TDH to assess an administrative penalty against a person who violates the rule on home and community support agencies. Requires TDH to establish, by rule, a schedule of penalties for each possible violation.
- △ Requires TDH to provide written notice of the violation to the alleged to have violator. Authorizes a person the option of accepting the determination of TDH or making a written request for a hearing on that determination.
- △ Sets forth requirements for TDH on notification and payment of administrative penalties. Establishes judicial review of an alleged violation and a process for refunding penalties of violations overturned in court.
- △ Authorizes the attorney general to collect reasonable expenses and costs for bringing an action against a person who allegedly committed a violation or enforcing an administrative penalty.
- △ Deletes the option of a qualified dialysis technician administering medication to a client of a home and community support services agency.

**Acudetox Specialist Certification - S.B. 1765**

*by Senator Moncrief*

*House Sponsor: Representative Counts*

- △ Provides for the certification of acudetox specialists, defined as persons who practice acupuncture for the limited purpose of treating alcoholism, substance abuse, and chemical dependency.
- △ Authorizes the Texas State Board of Medical Examiners (medical board) to certify an acudetox specialist.
- △ Establishes notification and record keeping requirements for a program that includes the services of an acudetox specialist.

**Texas Contact Lens Prescription Act - H.B. 196**

*by Representatives Maxey and Howard*

*Senate Sponsor: Senator West*

- △ Requires each physician, optometrist, and therapeutic optometrist who performs an eye examination and fits a patient for contact lenses to give a contact lens prescription to the patient on request, with certain exceptions.
- △ Prohibits a person, other than the prescribing individual, from selling, delivering, or dispensing contact lenses to a patient unless the person receives an original contact lens prescription.
- △ Provides that contact lenses may only be dispensed by the following persons: a physician, optometrist, therapeutic optometrist, pharmacist, or an optician who holds a valid permit.
- △ Authorizes the Texas Board of Health to suspend or revoke a person's permit, place the permit holder on probation, or impose an administrative penalty.
- △ Prohibits a prescription from being modified.
- △ Requires an optician to obtain a contact lens dispensing permit from the Texas Board of Health (board) before dispensing contact lenses.
- △ Provides that a person commits a Class B misdemeanor if the person violates this Act.

- △ Authorizes a court, in addition to granting injunctive relief or other legal relief, to impose a civil penalty for a violation.
- △ Establishes the liability of physicians, optometrists, or therapeutic optometrists.

### **Exchange of Information Between Health Care Regulatory Agencies - H.B. 561**

*by: Representative Hochberg*  
*Senate Sponsor: Senator Zaffirini*

- △ Requires a health care regulatory agency to forward information gathered in a complaint to another health care regulatory agency if it believes the information may be grounds for conducting an investigation or disciplinary proceeding against a health care provider.
- △ Establishes the type of information that may be grounds for investigative or disciplinary action, and requires that privileged or confidential information be maintained.
- △ Requires a health care regulatory agency to establish and implement written procedures to ensure that required information is forwarded not later than the 15th day after the agency determines the information is relevant.

### **Midwifery – H.B. 2088**

*by Representative Cuellar*  
*Senate Sponsor: Senator Zaffirini*

- △ Requires the midwifery board to establish education requirements and practice guidelines for midwives.
- △ Requires the Texas Department of Health to maintain a roster of all person documented as midwives in this state.
- △ Requires a midwife to encourage a client to seek medical care through consultation or referral if certain determinations are made.
- △ Requires a midwife who attends the birth of a child to administer to that child prophylaxis approved by the Texas Board of Health for the prevention of ophthalmia neonatorum, except under certain conditions.
- △ Authorizes the Texas Department of Health to assess an administrative penalty for violations.

**Investigating Complaints Made Against a Social Worker -  
H.B. 2618**

*by Representative Naishtat  
Senate Sponsor: Senator Moncrief*

- Δ Adds denying or suspending on an emergency basis a license or order of recognition to the actions which the Texas State Board of Social Worker Examiners (board) must undertake for certain reasons.
- Δ States that a suspension is effective immediately if the board suspends a license or order of recognition on an emergency basis. Requires the board to provide an opportunity for a hearing within 20 days of the suspension.
- Δ Subjects a person whose license or order of recognition has expired to sanctions for violations during the time in which the license or order of recognition was unexpired.
- Δ Authorizes the board to conduct an investigation of a complaint and reach a decision on its validity, regardless of the status of the license or order of recognition of the person against whom the complaint is issued.

**Hospital Authority Assets - H.B. 3234**

*by Representative Hinojosa  
Senate Sponsor: Senator Lucio*

- Δ Prohibits a hospital authority and the governing body from transferring the assets of the authority without due compensation except to the municipality or county that created the authority to fund or support health-related projects.

**Emergency Borrowing and Services for the Disabled or Elderly - S.B. 17**

*by Senator Fraser*

*House Sponsor: Representative Place*

- △ Allows the board of directors of a county hospital authority (authority) to borrow money at a certain interest rate if the board declares that funds are not available to meet lawfully authorized obligations and that an emergency exists.
- △ Allows the authority to construct, acquire, own, operate, improve, furnish, equip, or provide the following facilities and services to care for the disabled or elderly: a nursing home or similar long-term care facility, elderly housing, assisted living services, home health care, personal care, special care, continuing care, or durable medical equipment.

**Using Internet Sites to Provide Technical Assistance to Human Services Providers - S.B. 290**

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Maxey*

- △ Requires health and human service agencies, in conjunction with the Department of Information Resources, to enhance existing Internet sites to provide technical assistance for human services providers.
  - △ Requires the assistance to include information on the impact of federal and state welfare reform changes on human services providers.
  - △ Prohibits the assistance from including confidential information on a client of a human services provider.
  - △ Requires a legislative report on the cost effectiveness of using the Internet in this manner.

**Poison Control Center Network Services - S.B. 388**

*by Senator Whitmire*

*House Sponsor: Representative Van de Putte*

- △ Authorizes the Texas Department of Health and the Advisory Commission on State Emergency Communications to adopt rules which permit poison control centers to provide services for regions served by other poison control centers in this state.

- △ Authorizes the contracting, subject to the governor's approval, with any person to provide telephone referral and information services or any community education and assistance program. If a contract is approved, requires contracting with one or more regional poison control centers to provide the required services, unless it would result in diminished services.
- △ Requires a study to be done to determine what opportunities may exist to provide poison control services through outside contracts.

## **Local Maintenance of Vital Statistics - S.B. 444**

*by Senator Zaffirini*

*House Sponsor: Representative Berlanga*

- △ Expands the means of registering a birth, death, or fetal death to include photographic, electronic, or other means as prescribed by the state registrar.
- △ Authorizes the destruction of birth, death, or fetal death permanent records after the first year of the incident, if the local registrar has access to the electronic database maintained by the Bureau of Vital Statistics at the Texas Department of Health and verifies the existence of the records in the bureau's database, before the records' destruction.
- △ Eliminates compensation of local registrars and county clerks for each birth, death, or fetal death certificate that is registered, correctly recorded, and promptly sent to the Bureau of Vital Statistics.

## **Guardianship Advisory Board - S.B. 586**

*by Senator Moncrief*

*House Sponsor: Representative Naishtat*

- △ Creates the Guardianship Advisory Board to advise the Health and Human Services Commission (HHSC) in adopting minimum standards for acting as a guardian for incapacitated individuals or other individuals who need assistance in making decisions concerning the individual's own welfare or financial affairs.
- △ Requires HHSC to adopt minimum standards for the provision of guardianship and related services by a guardianship program; a person who provides guardianship services, including volunteer guardians; and a person who serves as a private professional guardian.

- △ Requires HHSC to develop and, subject to appropriations, implement a plan:
  - △ to ensure that each incapacitated individual in the state who needs a guardianship or another less restrictive type of assistance receives the guardianship or assistance;
  - △ to foster the establishment and growth of local volunteer guardianship; and
  - △ to protect the interests of an incapacitated individual or other individual needing guardianship assistance.

## Using Organ Donor Cards - S.B. 952

*by Senator Moncrief*

*House Sponsor: Representative Delisi*

- △ Authorizes donor cards to be provided by organ or tissue procurement organizations or eye banks, as evidence of a person's intention to make organ, tissue, or eye donations.

## Unlicensed Personal Care Facilities - H.B. 1596

*by Representative Hochberg*

*Senate Sponsor: Senator Moncrief*

- △ Requires the Texas Department of Human Services (DHS) to establish procedures to issue a six-month provisional license to an existing personal care facility (facility) with residents. Authorizes the provisional license if the facility complies with resident care standards and the improvement is only for voluntarily disclosed problems relating to the life safety code or physical plant standards. Prohibits DHS from issuing a license to the facility if it does not meet specifications at the end of the six-month provisional license period.
- △ Authorizes a municipality to prohibit the operation of a facility without a license and establish a procedure for emergency closure of a facility.
- △ Authorizes DHS to petition a district court for a temporary restraining order to inspect a facility allegedly operating without a license when admission to the facility cannot be obtained.
- △ Establishes civil penalties for operating a facility without a license.
- △ Requires DHS to refer the case to the local district attorney, county attorney, or city attorney if the attorney general fails to take action within 30 days. Requires the attorney to file suit in a district court to collect and retain the penalty.

- Δ Prohibits investigation and attorney's fees from being assessed or collected by or on behalf of DHS or other state agency unless a penalty is assessed and collected.
- Δ Requires legal representatives to work in close cooperation throughout any legal proceedings requested by DHS. Requires the commissioner of human services to approve any settlement agreement to a suit.

## **Sunset Commission Studies of Health and Human Services Needs - H.B. 2385**

*by Representative Delisi*  
*Senate Sponsor: Senator Zaffirini*

- Δ Requires the Sunset Advisory Commission to study and make recommendations on:
  - Δ the need for objective research and analysis of health and human services needs and programs;
  - Δ options for objective development of a long-range strategic plan for health and human services in this state;
  - Δ whether existing resources available to the legislature include safeguards needed to maintain the quality of research and promote greater accountability to state leadership; and
  - Δ the most appropriate means for providing to the legislature the research information necessary to manage Texas' health and human services system and plan for its future.

## **Texas Information and Referral Network - H.B. 2596**

*by Representatives King and Maxey*  
*Senate Sponsor: Senator Zaffirini*

- Δ Designates the Texas Information and Referral Network (network) of HHSC as the program responsible for the development, coordination, and implementation of a statewide information and referral network that integrates existing community-based structures with state and local agencies.
- Δ Authorizes the network to develop an Internet site to provide information, indexed by geographic area and type of service regarding the health and human services throughout the state.

- △ Requires HHSC to establish a task force to implement the statewide information and referral system for health and human services, and to make recommendations to HHSC and other agencies providing health and human services.
- △ Requires the task force to evaluate the use of the Internet and other methods of providing access to information and referral services; conduct an inventory of all existing information and referral systems; and recommend a strategy for eliminating duplicative toll-free telephone numbers.

### **Special Procedures for Victims of Family Violence Who Receive Assistance - H.B. 3428**

*by Representative Naishtat, et al.*

*Senate Sponsor: Senator Moncrief*

- △ Requires the Texas Department of Human Services (DHS), Texas Workforce Commission (TWC), and the child support agency to adopt procedures under which requirements for financial assistance and related services may be waived or modified for a person who is a victim of family violence. Outlines requirements for procedures.
- △ Prohibits DHS, TWC, and the child support agency from denying access to education, training, employment, or other services because the person is a victim of family violence.
- △ Requires DHS to conduct a study, using an independent research group and existing funds, to develop a process or instrument for identifying characteristics of individuals who are victims of family violence, and to identify services that provide the greatest assistance to victims of family violence in attaining financial independence.
- △ Requires DHS, TWC, and the child support agency to submit a joint report to the legislature on waivers and modifications. Outlines what the report must include.
- △ Requires agencies to request a waiver or authorization from a federal agency if necessary for implementing these provisions, and authorizes a delay in implementing provisions if a federal waiver is required.

## **Church Property Insurance - S.B. 79**

*by Senator Ellis, et al.*

*House Sponsor: Representative McClendon*

- Δ Prohibits an insurer from canceling or declining to renew a church's insurance policy solely because of a previous occurrence of arson against the church, provided the church has cooperated with authorities in the investigation of the arson and prosecution of those responsible.
- Δ Prohibits insurers from canceling a church's policy based on verbal or written threats of arson received by the church.

## **Property and Casualty Insurance Rates - S.B. 1498**

*by Senator Sibley*

*House Sponsor: Representative Eiland*

- Δ Authorizes certain property and casualty insurers to continue their previously filed rates, or make additional rate filings based on the previous benchmark rate, for new policies or policies renewed prior to the effective date of the new rate.

## **Ranch and Farm Insurance - S.B. 1499**

*by Senator Sibley*

*House Sponsor: Representative Dutton*

- Δ Provides for the regulation of rates and policy forms for farm and ranch owners' insurance coverage under the same regulatory system used for commercial lines of insurance. Authorizes the Commissioner of Insurance to adopt policy forms of national insurers that provide reduced coverage.

## **Application of Insurance Law to Certain Service and Asset Management Contracts - S.B. 1913**

*by Senator Sibley*

*House Sponsor: Representative Smithee*

- Δ Clarifies that transactions involving service contracts by the manufacturer or seller of the property covered, and transactions involving asset management contracts with owners of capital equipment are not subject to the Insurance Code.
- Δ Requires third party obligors to insure their obligation with an insurer licensed to do business in Texas.

## **Texas Employees Uniform Group Insurance Benefits Act - H.B. 163**

*by Representative Maxey  
Senate Sponsor: Senator Gallegos*

- Δ Proposes the adoption of rules to allow for payment of accelerated benefits and irrevocable beneficiaries in a group life insurance program.

## **Auto Insurance Coverage for Damage Repairs - H.B. 423**

*by Representative Farrar, et al.  
Senate Sponsor: Senator Cain*

- Δ Prohibits an insurer from limiting coverage under a motor vehicle policy by specifying the vendor or supplier that may be used or limiting the beneficiary from selecting a repair person or facility.
  - Δ Requires insurers to provide notice to the beneficiary or third-party claimant in accordance with rules adopted by the commissioner of insurance.

## **Uninsured Motorists - H.B. 627**

*by Representatives Flores and Gutierrez  
Senate Sponsor: Senator Truan*

- Δ Requires uninsured motorists convicted of driving without liability insurance to purchase a six-month insurance policy to avoid having their driving privileges suspended.

## **Burden of Proof in Workers' Compensation Discrimination Suits - H.B. 768**

*by Representative Junell, et al.  
Senate Sponsor: Senator Duncan*

- Δ Places the burden of proof in a retaliatory termination suit on the employee to prove that the employee's claim for workers' compensation benefits was the substantial cause of the employee's discharge.

## Privatization of the Texas Workers' Compensation Facility - H.B. 976

*by Representative Brimer, et al.*  
*Senate Sponsor: Senator Armbrister*

- △ Transfers control of assets, liabilities, and obligations of the Texas Workers' Compensation Facility to the Texas Property and Casualty Insurance Guaranty Association.
- △ Provides for the privatization of the facility's account should the association, with approval of the commissioner of insurance, determine that privatization is in the best interest of Texas.

## Funeral Prearrangement Insurance - H.B. 1356

*by Representative Counts*  
*Senate Sponsor: Senator Haywood*

- △ Allows insurers that issue life or annuity coverage under regulated prepaid funeral contracts to simplify the licensing of agents who write insurance only in the funeral prearrangement market.
- △ Allows an insurer to administer its own instruction and licensing examination under a program approved by the commissioner of insurance but subject to the commissioner's discretionary withdrawal.

## Private Passenger Automobile Insurance - H.B. 1662

*by Representative Counts*  
*Senate Sponsor: Senator Sibley*

- △ Prohibits a county mutual insurer, which is directly or indirectly controlled by certain holding companies, from using a rate for an insured on private passenger automobile insurance, other than insurance on mobile homes and single interest insurance, that is lower than the highest rate allowed under the flexibility band for that line, after the application of all discounts and policy fees.

## Catastrophe Insurance Limits - H.B. 1853

*by Representative Eiland, et al.*  
*Senate Sponsor: Senator Patterson*

- △ Increases the current liability limits for a policy issued by the Texas Catastrophe Insurance Property Association and authorizes the association to purchase additional insurance for a policy that includes coverage in excess of the liability limit.

## **Life Insurance Benefits Prior to Death - H.B. 1865**

*by Representative Maxey, et al.*  
*Senate Sponsor: Senator Shapleigh*

- △ Authorizes an insurer to pay an accelerated benefit under an individual or group term life insurance policy if the company has evidence that the insured has a terminal illness, long-term care illness, or a specified disease.

## **Remedies for Insurance Fraud - H.B. 1901**

*by Representative Lewis*  
*Senate Sponsor: Senator Shapleigh*

- △ Authorizes the commissioner of insurance to use any combination of remedies, including the revocation of an insurer's license and an order to pay restitution to injured parties, for illegal activity on the part of a licensee.

## **State Office of Risk Management - H.B. 2133**

*by Representatives Jackson and Brimer*  
*Senate Sponsor: Senator Ratliff*

- △ Creates the State Office of Risk Management (office) to administer the government employees workers' compensation insurance and the state risk management programs.
- △ Requires the office to perform certain duties including:
  - △ administering guidelines adopted by the risk management board for a comprehensive risk management program applicable to all state agencies to reduce property and liability losses, including worker's compensation losses;
  - △ reviewing, verifying, monitoring, and approving risk management programs adopted by state agencies;
  - △ assisting a state agency that has not implemented an effective risk management program to implement a comprehensive program that meets the guidelines established by the board; and
  - △ administering the workers' compensation insurance programs for state employees.
- △ Provides that the office is administratively attached to the Office of the Attorney General, which is required to provide the facilities for the office, but the office shall be independent of the Office of the Attorney General's direction.

- △ Creates the risk management board and sets forth the composition and duties of the board.
- △ Requires each state agency to actively manage the risks of that agency by maintaining programs to assist employees who sustain compensable injuries to return to work.

## **Title Insurance - H.B. 2887**

*by Representative Dutton  
Senate Sponsor: Senator Whitmire*

- △ Prohibits the commissioner of insurance from considering expenses relating to certain promotional and educational activities when fixing the premium rates to be charged by title insurance companies and title insurance agents created or operating as title insurers under the Texas Title Insurance Act.
- △ Provides that certain legal promotional or educational activity is not considered a rebate or discount prohibited by Article 9.30 (Rebates and Discounts), Insurance Code.

## **Texas Catastrophe Property Insurance - H.B. 3031**

*by Representative Eiland, et al.  
Senate Sponsor: Senator Patterson*

- △ Authorizes the Texas Catastrophe Property Association (association) to make recommendations to the commissioner of insurance (commissioner) for reductions in coverage or increases in deductibles for commercial and residential properties located primarily along the Texas coast.
  - △ Authorizes the commissioner, after notice and hearing, to accept, modify or reject the association's recommendations.

## **Insurance Carriers Involved in Workers' Compensation Lawsuits - H.B. 3137**

*by Representatives Solomons and Brimer  
Senate Sponsor: Senator Armbrister*

- △ Prevents the use of settlement agreements and judgments based on default or on agreement of the parties to overturn appeals panel decisions.
- △ Prevents carriers from using these types of judgments and settlements to seek reimbursement from the subsequent injury fund for benefit payment made to a claimant.

- △ Ensures that the Texas Workers' Compensation Commission has notification of proposed judgments and settlements and ensures the commission's right to intervene.

## **Utilization Review of Workers' Compensation Benefits - H.B. 3197**

*by Representatives Janek and Brimer  
Senate Sponsor: Senator Moncrief*

- △ Requires the commissioner of insurance to establish regulations for persons who perform utilization review of health care services provided to individuals eligible for workers' compensation medical benefits.

## **Texas Workers' Compensation Insurance Fund - H.B. 3354**

*by Representatives Dukes and Brimer  
Senate Sponsor: Senator Armbrister*

- △ Changes and clarifies the powers and duties of the Texas Workers' Compensation Insurance Fund (fund) and its board of directors by:
  - △ adding language to the fund's statute clarifying the legislative purposes for the fund's existence;
  - △ allowing the fund to charge higher, more competitive rates of interest to employers choosing not to repay their workers' compensation insurance premiums; and
  - △ authorizing the fund to use 20 percent of its surplus each year for the purpose of retiring the bonds used to start up the fund.

## **Texas Catastrophe Property Insurance Pool - H.B. 3383**

*by Representative Eiland, et al.  
Senate Sponsor: Senator Patterson*

- △ Provides that new building code standards adopted by the commissioner of insurance must be met for new residential construction to be insurable by the Texas Catastrophe Property Insurance Association.
- △ Requires the commissioner to establish rate reductions for new residential construction built to the standards of a new building code.

## Banks as Insurance Agents - H.B. 3391

*by Representative Smithee*

*Senate Sponsor: Senator Sibley*

- △ Allows a bank to act as an insurance agent for certain individuals or entities, if that individual or entity first procures a license from the Texas Department of Insurance (TDI).
  - △ Requires TDI to issue a license to a bank if TDI finds that certain requirements are met.
  - △ Allows a bank licensed as an agent to have additional offices from which the business of insurance is conducted only in a place with a population of 5,000 or less and requires a bank to comply with TDI's regulations regarding additional offices.
  - △ Requires a bank licensed as an agent under this article to maintain its insurance records, including all files relating to and reflecting customer complaints, separate from records relating to banking transactions of the bank.
  - △ Makes it unlawful for any bank, or any partner, employee of a corporation, or any officer, director, or employee of a bank to act as a local recording agent or solicitor in procuring certain business until that person or entity has procured a license from the department.
- △ Authorizes a bank operating subsidiary located and doing business in a place with a population of 5,000 or less to own a licensed corporate agent that is also located and doing business in a place with a population of 5,000 or less.
- △ Authorizes certain banks to receive profits from the licensed bank operating subsidiary. Requires the bank to hold an agent license in order to advertise under the bank name or participate in the insurance operation other than by receiving profits from the insurance business.
- △ Provides that certain acts are unfair methods of competition and unfair practices in the sale of insurance by banks; disclosure requirements for banks; and regulations regarding the independence of bank agents from loan transactions, customer privacy, and the physical location of insurance activities.
- △ Provides for a nonresident agent license.

## New Judicial District Courts - S.B. 20

*by Senator Gatliff*

*House Sponsor: Representative Thompson, et al.*

- △ Creates 15 new district courts to be located in Fort Bend, Tarrant, Bexar, Harris, Galveston, Travis, Tom Green, Cameron, and Smith counties.

## Lawsuits Arising Out-of-State - S.B. 220

*by Senator Bivins, et al.*

*House Sponsor: Representative Junell*

- △ Amends Texas forum non conveniens law to provide that a claim may be stayed or dismissed in whole or part if:
  - △ an alternative forum exists in which the claim may be tried;
  - △ the alternate forum provides an adequate remedy, and can exercise jurisdiction over all defendants;
  - △ maintaining the claim in Texas would work a substantial injustice to the moving party;
  - △ the balance of the parties' private interests and the state's public interest favor the claim being brought in the alternative forum; and
  - △ the stay or dismissal would not result in unreasonable duplication or proliferation of litigation.
- △ Authorizes a court to set the terms and conditions for staying or dismissing a claim.
- △ Bars a court from staying or dismissing a claim when a plaintiff is a Texas resident. Requires the court to dismiss a claim if the court finds that a party was joined solely for the purpose of obtaining Texas jurisdiction and the party's claim would be more properly heard in another forum.
- △ Makes provisions applicable to civil actions commenced on or after January 1, 1999, brought under certain federal acts or concern air transportation operating in or traveling to or from Texas; and all other civil actions brought on or after the Act's effective date.
- △ Limits the ability to bring civil actions for personal injury or wrongful death suits in Texas in which the plaintiff was not a Texas resident at the time the claim arose; the plaintiff's claim arose outside of Texas; and the claim alleges harm caused by exposure to asbestos fibers.

- △ Requires a court, on the defendant's motion, to dismiss claims filed in Texas on or after August 1, 1995, but before January 1, 1997, unless the plaintiff files a written statement to abate the claim for 180 days, after which time the court must dismiss the claim, or retain the claim and limit any exemplary damages against the defendant to a maximum amount set by statute.
- △ Bars a court from abating or dismissing a claim unless that defendant waives any statute of limitations defense in all other states in which the claim was not time-barred at the time the claim was filed in Texas.
- △ These provisions apply to civil actions alleging harm caused by asbestos exposure pending on the Act's effective date. The law in effect before the effective date applies to actions tried before the effective date or in trial on that date and to subsequent new trials or retrials.
- △ Authorizes a citizen of another state or country to bring a personal injury or death claim in Texas if the action is filed in Texas within the time provided by the laws of the other jurisdiction.

## Hearings on Protective Orders - S.B. 299

*by Senator Ratliff*

*House Sponsor: Representative Ramsay, et al.*

- △ Requires a court, on the request of the prosecuting attorney in a multi-county judicial district, to set the hearing on a protective order for a date and time not later than 20 days after the date the application is filed or 20 days after the date a request is made to reschedule a hearing.

## Certain Judicial Salaries - S.B. 310

*by Senator Brown, et al.*

*House Sponsor: Representative Goodman, et al.*

- △ Increases the annual salary of a justice of the Texas Supreme Court to at least \$102,463, notwithstanding existing law.
- △ Provides that the salary of a local administrative judge in a county of more than six district courts is entitled to an annual state salary that is \$5,000 more than the salary to which the judge is otherwise entitled under law.
- △ Provides that if at least 40 percent of the functions that a county court judge performs are judicial, that judge is entitled to an annual salary supplement of \$5,000. Sets out the procedure for claiming the supplement.

- △ Provides that, notwithstanding existing law, the salary from the state of a retired or former judge or justice assigned to a district court is determined pro rata on the sum of the regular judge's salary from the county, plus the greater of: the regular judge's salary from the state on August 31, 1997; or 85 percent of the regular judge's salary from the state.

## Fraudulent Public Records, S.B. 424 (Died in the House)

*by Senators Bivins and Carona*

- △ Adds a definition of "court record" to Chapter 37 of the Penal Code (Perjury and other falsification).
- △ Makes it a Class A misdemeanor or, if the person has two or more previous convictions under this section, a third degree felony, to make, use, or present any document or record with:
  - △ knowledge that the document or record is not a genuine court record; and
  - △ intent that the document or record be given the same effect as a genuine court record.
- △ Provides that a clerk of the supreme court, court of criminal appeals, or a court of appeals, or a district clerk, county clerk, or municipal clerk may give written notice of any document that the clerk has reason to believe is fraudulent.
- △ Requires clerks to post a warning sign visible to the public that it is a crime to intentionally or knowingly file a fraudulent court record or instrument.
- △ Sets out the procedure for filing a motion for judicial review of a document purporting to create a judgment lien or a lien or claim on real or personal property.
- △ Requires the court's conclusion of law and finding of fact to be filed in the same class of records as the original document. If the purported lien or other claim is one that is authorized by law to be filed with the secretary of state, a certified copy of the finding of fact and conclusion of law may be filed with the secretary of state.
- △ Provides that a county or district clerk or a person against whom a claim or lien is asserted in a recorded document may seek judicial review of a recorded document to determine whether that document is fraudulent.
  - △ Sets out the procedure for filing a motion for judicial review.

- △ Requires a court order granting relief from a fraudulent document to be recorded in the same manner as the original document.
- △ Requires the court to award a prevailing party all costs and related expenses of bringing or defending against the action.

## **Adoption of the Uniform Transfer on Death Security Registration Act - S.B. 504**

*by Senator Harris*

*House Sponsor: Representative Thompson*

- △ Adopts the Uniform Transfer on Death Security Registration Act.

## **Exemption of Certain Persons From Jury Service - S.B. 551**

*by Senator Brown*

*House Sponsor: Representative Thompson*

- △ Raises the age of elective exemption from jury service for elderly persons from over 65 years to over 70 years of age.

## **Amending Durable Powers of Attorney Act - S.B. 620**

*by Senator Harris*

*House Sponsor: Representative Hilbert*

- △ Amends the Durable Power of Attorney Act in the Probate Code.
  - △ Provides that if a person (principal) executes a durable power of attorney (POA) appointing his or her spouse as an attorney in fact or agent, the POA terminates on the date a court grants a divorce or an annulment of the marriage.
  - △ Provides that, as to a POA appointing a spouse as an attorney in fact or agent, a divorce or annulment of the marriage does not revoke or terminate the agency as to a person, other than the principal's former spouse, who acts in good faith in reliance on the POA.
  - △ Allows a principal to make special instructions granting an agent or attorney in fact the power to apply the principal's property to make gifts.

- △ Defines disability or incapacity for the purposes of the POA, if not defined in the POA, as certification by a physician, at a date later than the date that the POA was executed, that, based upon the physician's medical examination of the principal, the principal is mentally incapable of managing his or her financial affairs. Authorizes a physician making the examination to disclose the principal's physical or mental condition to a third person for the purposes of the POA.
- △ Includes management and supervision of a mineral estate in the POA relating to real property.

### **Prohibiting Deceptive Trade Practices Against Elderly Consumers - S.B. 1007**

*by Senator Ellis*

*House Sponsor: Representative Hirschi*

- △ Provides for a civil penalty of not more than \$10,000 per violation, not to exceed a total of \$100,000, if the consumer protection division of the Attorney General's Office determines that the deceptive act or practice was calculated to acquire money or other property from a consumer who was 65 years of age or older when the act or practice occurred.

### **Judicial Efficiency - S.B. 1417**

*by Senator Ellis, et al.*

*House Sponsor: Representative Gallego*

- △ Requires the clerk of a district court, statutory county court, county court at law, or justice of the peace court to collect a \$25 fee from persons who seek to pay a fine, court costs, or restitution over a period of time.
- △ Requires the judges of the Texas Supreme Court, Court of Criminal Appeals, and courts of appeals to encourage the recruitment of judicial law clerks and staff attorneys that reflect the state's gender, racial, and ethnic diversity. Requires the Office of Court Administration (office) to publish an annual report of the demographic profile of such clerks and attorneys.
- △ Requires the office to annually publish a performance report regarding the efficiency of state courts. Requires the office to adopt rules and forms for obtaining information and administering this requirement.
- △ Requires the office to report the aggregate clearance rate (number of cases disposed of divided by the number of new cases) for district courts.

- △ Sets out reporting requirements for courts of appeals, the Court of Criminal Appeals, and the Texas Supreme Court concerning cases filed, cases disposed of, and other information.
- △ Creates the Judicial Committee on Information Technology (committee) to implement the recommendations of the Information Task Force of the Texas Commission on Judicial Efficiency and develop programs or standards for the use of computer, voice storage, and other technology by the courts. Sets out the committee's membership, members' compensation, and the powers and duties of the committee.
- △ Creates a judicial technology account in the judicial fund administered by the committee to provide technological support to the judiciary as approved by the committee. This account may be supplemented by local or federal money, or private or public grants.
- △ Requires the committee to file an annual report with the Legislative Budget Board regarding disbursements from this account.
- △ Provides that provisions barring a governmental entity from imposing a charge for access to information in an electronic medium do not apply to the collection of a fee set by the Texas Supreme Court, after consultation with the committee, for use of a computerized electronic judicial information system.

## **Supreme Court Business Transactions Location - S.J.R. 19**

*by Senator Wentworth*

*House Sponsor: Representative Gallego*

- △ Amends the Texas Constitution, which requires the Texas Supreme Court to sit at the seat of government, to grant the court the discretion to sit at any other location. **Ballot Date: November 4, 1997.**

## **Municipal Court Judges to Hold More than One Office - S.J.R. 36 and S.B. 1173**

*by Senator Duncan*

*House Sponsor: Representative Clark*

- △ Proposes a constitutional amendment to allow a person to hold the position of municipal court judge in more than one municipality. **Ballot Date: November 4, 1997.**

## Granting of Bills of Review - H.B. 506

*by Representative Dutton*  
*Senate Sponsor: Senator Luna*

- △ Authorizes a court to grant a bill of review of a court order or judgment in a civil case only if the applicant meets certain criteria.
- △ Sets forth regulations regarding the time period in which the applicant must apply for a bill of review, the venue, and the contents of the application.
- △ Provides that any party affected by a court order or judgment that is the subject of an application for a bill of review is a necessary party to the action.

## Civil Liability of Neighborhood Crime Prevention and Patrol - H.B. 546

*by Representative Bosse*  
*Senate Sponsor: Senator Whitmire*

- △ Expands the definition of “charitable organization” under the Charitable Immunity and Liability Act of 1987 to include neighborhood crime prevention or patrol organizations.

## Notice that Entry on Property is Forbidden - H.B. 793

*by Representative Merritt, et al.*  
*Senate Sponsor: Senator Harris*

- △ Expands the definition of notice under the criminal trespass law to include the placement of purple marks, meeting certain size and location requirements, on trees or posts.
- △ Provides that such marks do not constitute notice unless there is a sign meeting certain size and lettering requirements placed at each entrance for vehicles to the property stating that the presence of such marks indicates entry is forbidden. This provision expires September 1, 1998.

## Solicitation of Employment by Professionals (Barratry) - H.B. 1327

*by Representative Nixon*  
*Senate Sponsor: Senator Duncan*

- △ Extends the laws regarding barratry (solicitation of employment) to chiropractors, physicians, surgeons, private investigators, or any other person licensed, certified, or registered by a state agency that regulates a health care profession.

## Enforcement of Laws Prohibiting Employment Discrimination - H.B. 1453

*by Representative Sylvester Turner, et al.*

*Senate Sponsor: Senator Barrientos*

- Δ Provides for the enforcement, by the Office of the Attorney General, upon authorization by the Commission on Human Rights (commission), of certain laws prohibiting employment discrimination.
  - Δ Requires the attorney general to review the commission's request and determine, within 20 days, if the commission's reasonable cause findings are well-grounded in fact and warranted by law.
  - Δ Requires the attorney general to commence legal action within 30 days if the commission's reasonable cause findings are well-grounded in fact and warranted by law.
  - Δ Authorizes the commission to overrule an attorney general decision not to commence legal action, in which case the attorney general must file suit within 30 days of the commission's decision to overrule, or authorize the commission to retain outside legal counsel.

## Confidentiality of Communications with an Advocate for Survivors of Sexual Assault - H.B. 1990

*by Representative Naishtat, et al.*

*Senate Sponsor: Senator Barrientos*

- Δ Requires an individual who is an advocate for survivors of sexual assault to have completed a certified sexual assault training program and to be employed by a sexual assault program; or to provide services through a sexual assault program as a volunteer supervised by an advocate.
- Δ Provides that communications and records on the communications between an advocate for survivors of sexual assault (advocate) and a survivor of sexual assault made in the course of providing sexual assault advocacy services are confidential, except in a court or administrative proceeding if:
  - Δ brought by a survivor against an advocate or a sexual assault program or in a criminal proceeding or a certification revocation in which disclosure is relevant to the claims or defense of the advocate or sexual assault program; or
  - Δ the survivor or a person authorized to act on behalf of the survivor consents in writing.

- △ Makes it a Class C misdemeanor if a person intentionally or knowingly discloses a confidential communication or record.

## **Voter Registration Lists - H.B. 2156**

*by Representative Solis*  
*Senate Sponsor: Senator Luna*

- △ Deletes the provision allowing only counties with a population of less than 105,000, in which the municipality with the largest population is located in more than one county, to contract with another governmental unit or private person to combine the voter registration list with the list furnished by the Department of Public Safety.

## **Criminal Court Fees - H.B. 2272**

*by Representative Thompson*  
*Senate Sponsor: Senator Armbrister*

- △ Simplifies the procedures through which state criminal court case fees are collected in municipal, justice, county, and district courts by consolidating the majority of fees into one charge.
- △ Requires a person to pay \$5 upon conviction of a felony or a misdemeanor. Requires the comptroller to deposit these funds to the credit of the fugitive apprehension account. The account would be used to pay the cost of apprehending individuals for whom warrants have been issued.
- △ Establishes a fee to cover court costs for special services.

## **Unauthorized Attorney Compensation - H.B. 2633**

*by Representative Brimer*  
*Senate Sponsor: Senator Harris*

- △ Prohibits an attorney, before the conclusion of all aspects of a criminal matter that gives rise to an attorney's employment, from making or negotiating an agreement with a client, a prospective client, or former client that provides the attorney literary or media rights to a portrayal or account based in substantial part on information relating to the representation.
- △ Provides that a person commits an offense if, while acting as an attorney, the person agrees to accept, as compensation for legal advice provided by the person in a criminal matter, the right to publish, in print, film or otherwise, the account of a crime or the events associated with a crime.

- Δ Allows a person, including the crime victim or the estate of a crime victim, to bring suit against an attorney whose violation of attorney's compensation provisions results in damages incurred by the person bringing the suit.
  - Δ Entitles a person to recover actual damages caused to the person exemplary damages in an amount determined by the court; reasonable attorney's fees; and court costs.
- Δ Provides that an administrative, civil, or criminal action brought against an attorney based on a violation of attorney's compensation provisions does not limit or restrict another action against the attorney by the same or another person.

## **Salary of Certain District Judges - H.B. 2697**

*by Representatives Gallego and Thompson*

*Senate Sponsor: Senator Ellis*

- Δ Provides that in a county with more than five district courts, a district court judge who serves as a local administrative court judge is entitled to an annual salary that is \$5,000 more than the salary from the state.

## **Certain Filing Fees and Statutory County Court Judges' Salaries - H.B. 2837**

*by Representative Thompson*

*Senate Sponsor: Senator Ellis*

- Δ Effective January 1, 1998, certain statutory county court judges shall be paid a total salary annual salary amount set by the commissioners court that is at least equal to an amount that is \$4,000 (currently, \$1,000) less than the total annual salary received by a district judge in that county.
  - Δ Exempts counties from this salary requirement if the county begins collecting certain additional fees and costs and the judge's salary meets certain requirements.
- Δ Increases from \$25,000 to \$30,000 the amount the state shall annually compensate counties collecting certain additional fees and costs for certain statutory county court judges.
- Δ Increases from \$30 to \$40 the amount the state comptroller shall credit of certain fees deposited in the state judicial fund by a county.

- Δ Increases from \$30 to \$40 the amount a statutory county clerk shall collect as a civil case filing fee to be used for court-related purposes for the support of the judiciary.

## **Deadline for Supreme Court Action on a Motion for Rehearing - H.J.R. 55**

*by Representative Dutton  
Senate Sponsor: Senator Ellis*

- Δ Proposes that if the state supreme court does not act on a motion for rehearing before the 180th day after the date on which the motion is filed, the motion is denied. **Ballot Date: November 4, 1997.**

## Zero Tolerance for Juvenile DWI - S.B. 35

*by Senator West, et al.*

*House Sponsors: Representatives Place and Brimer*

- △ Establishes "zero tolerance" for juveniles driving while intoxicated. Defines an individual under the age of 21 with a blood alcohol content (BAC) of .00 percent or higher to be driving under the influence of alcohol. (Texas currently allows drivers under the age of 21 to drive a motor vehicle with a BAC of up to .07.)
  - △ Increases the penalty for those under the age of 17 for the first and second offense of driving while intoxicated from conduct indicating a need for supervision to delinquent conduct.
  - △ Increases the penalties for all alcohol-related offenses by a minor, including possession, attempt to acquire, and consumption of alcohol. The penalties include suspension of a minor's driver's license, increased fines, participation in an alcohol awareness class, mandatory community service, and possibly jail on a third offense.

## Traffic Offenses by Minors - S.B. 81

*by Senator Ellis, et al.*

*House Sponsors: Representative Hochberg, et al*

- △ Modifies current law for a minor between 15 and 17 years of age who operates a motor vehicle on a public road or highway, street or alley in a municipality, or public beach.
- △ Allows a minor to be prosecuted for an accident involving:
  - △ personal injury or death;
  - △ damage to a vehicle; or
  - △ striking an unattended vehicle.

## Counterfeit Driver's Licenses - S.B. 89

*by Senator West*

*House Sponsor: Representative Hightower*

- △ Makes it an offense for a person under 21 years of age to possess any document deceptively similar to a driver's license or identification certificate with the intent of representing that the person is 21 years of age or older.

- Δ Makes it a Class A misdemeanor to possess with the intent to sell, distribute, or deliver a forged or counterfeit driver's license, personal identification certificate, or any other instrument not printed, manufactured, sold, circulated, or issued by or under the direction of Texas law, another state, the United States, or a Canadian province.
- Δ Makes it a Class C misdemeanor possess with the intent to use, circulate, or pass a forged or counterfeit instrument that the person knows is not printed, manufactured, sold, circulated, or issued by or under the direction of Texas law, another state, the United States, or a Canadian province.
- Δ Makes it a third-degree felony to manufacture or produce with the intent to sell, distribute, or deliver a forged or counterfeit instrument that the person knows is not printed, manufactured, sold, circulated, or issued by or under the direction of Texas law, another state, the United States, or a Canadian province.
- Δ Strikes language providing that a person who is subpoenaed and testifies about an offense of distribution or manufacture of a counterfeit instrument cannot be prosecuted for the offense.

## **Expanding the Definition of "Victim" - S.B. 170**

*by Senator West*

*House Sponsor: Representative Hodge*

- Δ Expands the definition of "victim" to include any person that suffers a monetary loss, personal injury, or harm resulting from the delinquent conduct of a juvenile.

## **Alcohol Awareness Courses for Juveniles - S.B. 197**

*by Senator Zaffirini, et al*

*House Sponsor: Representative Berlanga*

- Δ Requires the Texas Commission on Alcohol and Drug Abuse to regulate, coordinate, and provide training for alcohol awareness courses required to be attended by minors convicted of certain alcohol purchase, consumption, or possession provisions.

## Juvenile Offender Information - S.B. 625

*by Senator Whitmire*

*House Sponsor: Representative Goodman*

- Δ Allows the Department of Public Safety to disseminate to the public, information relating to a juvenile offender who has escaped from the custody of the Texas Youth Commission (TYC), including the juvenile offender's name or aliases, physical description, photograph, and the conduct or offense, which caused the offender to be committed to TYC.

## Treatment for Juvenile Sex Offenders - S.B. 1232

*by Senator Shapiro*

*House Sponsor: Representative McClendon*

- Δ Authorizes the court or the Texas Juvenile Probation Commission (commission) to require, as a condition of a juvenile's probation or release, that juvenile sex offenders attend psychological counseling sessions for sex offenders and submit to a polygraph examination to determine the juvenile's treatment progress, if the offending conduct was perpetrated against a child.
- Δ Authorizes the court or the commission to order the parent or guardian of the offending child to attend four sessions relating to sexual offense, family communication skills, sex offender treatment, victims' rights, parental supervision, and appropriate sexual behavior.
- Δ Requires the court to give a minimum of two years probation to a juvenile who commits certain sex offenses punishable as felonies.
- Δ Authorizes the court or the commission to extend the probation as necessary to allow the juvenile to complete the required counseling, except that the probation may not be extended past the juvenile's 18th birthday.
- Δ Requires the sex offender program treating the juvenile to report to the local juvenile probation department supervising the total number of counseling sessions attended by the child. Requires program representatives to provide the reason for the juvenile's termination or that the reason is unknown, if the juvenile terminates treatment prior to completion.

## Juvenile Driver's License - H.B. 1055

*by Representative Tillery, et al.*

*Senate Sponsor: Senator Carona*

- Δ Prohibits the Department of Public Safety from issuing a license to a juvenile who has been reported by a court for failure to appear in court or pay a fine in connection with a misdemeanor, including a misdemeanor under a municipal ordinance.

## Juvenile Justice Code - H.B. 1550

*by Representative Goodman, et al.*

*Senate Sponsor: Senator Harris*

- Δ Makes a number of clarifying and technical amendments to the Juvenile Justice Code:
  - Δ Authorizes a prosecutor to refer a petition to a grand jury in which the petition was filed if the juvenile is accused of committing arson and if bodily injury or death is suffered by anyone as a result of the accused conduct;
  - Δ Streamlines statutory warning requirements;
  - Δ Authorizes the Texas Youth Commission (TYC) to accept offenders with mental illness and requires TYC to discharge offenders with mental disorders under certain circumstances;
  - Δ Amends progressive sanctions guidelines;
  - Δ Makes amendments related to the maintenance and release of information in youth records;
  - Δ Establishes the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University; and
  - Δ Sets forth requirements for the construction or operation of a correctional or rehabilitation facility within a certain distance of a residential zoning area.

## Investigation of Abuse or Neglect in Juvenile Justice Facilities - H.B. 1929

*by Representative McClendon*  
*Senate Sponsor: Senator Zaffirini*

- △ Requires a report of alleged abuse or neglect to be made to a local law enforcement agency for investigation, if the abuse or neglect takes place in:
  - △ a public or private juvenile pre-adjudication secure detention facility, including hold-over facilities; or
  - △ a public or private juvenile post-adjudication secure correctional facility, except for a facility operated solely for children committed to the Texas Youth Commission,
- △ Requires the local law enforcement agency to immediately notify the Texas Juvenile Probation Commission of any report the agency receives.

## Texas Juvenile Probation Commission/Sunset - H.B. 2073

*by Representative Hightower*  
*Senate Sponsor: Senator Brown*

- △ Provides for the continuation and functions of the Texas Juvenile Probation Commission (TJPC) until September 1, 2009.
- △ Requires local juvenile probation departments to use the standard assessment tool developed by TJPC or a similar tool developed by a juvenile probation department and approved by the TJPC, for the initial assessment of children under the jurisdiction of probation departments.
- △ Requires TJPC to adopt rules regarding information collection, reporting standards, performance measures, and case management standards for local juvenile probation departments.
  - △ Requires TJPC to monitor local probation departments for compliance with the standards and measures that TJPC adopts, and provide technical assistance to local probation departments to aid compliance.
- △ Sets forth standards for a contract between TJPC and a county for local probation services.
  - △ Requires TJPC to establish a formal program to monitor contracts made by the commission.

# JUVENILE JUSTICE

- Δ Requires TJPC to identify areas in which federal Medicaid program benefits could be used in a manner that is cost-effective for children in the juvenile system, to encourage application for Medicaid benefits, to provide technical assistance to and monitor a county's application for and use of Medicaid.
- Δ Provides that the only entities, other than the state, authorized to operate a correctional facility to house out-of-state juvenile inmates in this state are a county or municipality and a private vendor operating certain correctional facilities.
  - Δ Requires TJPC to develop rules, procedures, and minimum standards applicable to county or private correctional facilities housing out-of-state juvenile inmates.
  - Δ Requires a contract to require the county, municipality, or private vendor to operate the facility in compliance with minimum standards adopted by TJPC.
- Δ Updates standard language developed by the Sunset Commission regarding qualifications, terms of appointment, and training for members of TJPC, and regarding program and service accessibility.

## **Standards and Registry of Juvenile Detention Facilities - H.B. 2749**

*by Representative McClendon  
Senate Sponsor: Senator West*

- Δ Requires the Texas Juvenile Probation Commission (TJPC) to set standards for and operate a registry of public and private juvenile pre-adjudication and post-adjudication secure facilities, except for those operated or certified by the Texas Youth Commission. Requires TJPC to annually inspect these facilities.

## **Purchase or Possession of Alcohol by a Minor - H.B. 3441**

*by Representative Kubiak  
Senate Sponsor: Senator Cain*

- Δ Gives the Alcoholic Beverage Commission statutory authority to use minors in conducting sting operations identifying retailers who sell alcoholic beverages to minors.
- Δ Provides that a minor does not commit an offense if the minor purchases or possesses an alcoholic beverage under the immediate supervision of a commissioned peace officer enforcing provisions of the Alcoholic Beverage Code.

## Municipal Workers' Payroll Deductions - S.B. 823

*by Senator Heath*  
*House Sponsor: Representative Naishtat*

- Δ Requires cities with a population of more than 50,000 to make certain deductions from the wages or salary of an employee for membership dues to a bona fide employees' association, under certain conditions, and if requested by an employee to do so.

## Intergovernmental Relations - S.B. 937

*by Senator Harris, et al.*  
*House Sponsor: Representative Goodman*

- Δ Creates the Texas Advisory Commission on Intergovernmental Relations (commission).
  - Δ Requires the commission to provide a forum for discussion of intergovernmental issues, conduct research, collect information, and publish research reports.

## Municipal Utility Districts - S.B. 1137

*by Senator Wentworth*  
*House Sponsors: Representatives Hilderbran and Krusee*

- Δ Provides the option for a board of directors of a municipal utility district that is located in the extraterritorial jurisdictions of more than one municipality to select the municipality that may exercise authority within the district.

## Indirect Costs for Highway Projects - S.B. 1661

*by Senator Shapiro*  
*House Sponsor: Representative Bosse*

- Δ Authorizes the Texas Department of Transportation (TxDOT) to waive the payment of indirect costs associated with a TxDOT agreement with another state agency or a local government entity related to a transportation project.

## Property Foreclosures - H.B. 110

*by Representative Giddings, et al.*

*Senate Sponsor: Senator West*

- △ Allows a governing body of a municipality to provide for the manner in which land acquired following the foreclosure of a tax lien, may be sold if the land is sold to:
  - △ a nonprofit organization that develops housing for certain low income individuals and families; or
  - △ certain nonprofit corporations which are involved in the development of affordable housing.

## County Speed Limits - H.B. 130

*by Representative Pitts*

*Senate Sponsor: Senator Cain*

- △ Authorizes a commissioners court of a county to lower the speed limit of a road, if the commissioners court determines that the speed limit is unreasonable or unsafe.

## Metropolitan Transit Authority Board Members - H.B. 883

*by Representative Krusee*

*Senate Sponsor: Senator Barrientos*

- △ Outlines provisions regarding the composition of the board of directors of certain metropolitan transit authorities.
  - △ Applies only to the board of an authority in which each member of the governing body of the principal municipality is elected at large.
  - △ Abolishes the current board on the effective date of this Act, and establishes a temporary board.

## Restrictions on Vehicle Registration - H.B. 1532

*by Representative Woolley*

*Senate Sponsor: Senator Whitmire*

- △ Allows a county assessor-collector or TxDOT to refuse to register a motor vehicle upon receiving information that the owner owes the county a past due fine, fee, or tax.

## Reclassification of Emergency Medical Organizations - H.B. 2213

*by Representative Delisi*  
*Senate Sponsor: Senator Armbrister*

- △ Prohibits local governing and law enforcement entities from adopting policies that may result in weaker laws regarding illegal drugs.

## Referendum Authority for Capital Metro - H.B. 2445

*by Representative Greenberg, et al.*  
*Senate Sponsor: Senator Barrientos*

- △ Authorizes the Capital Metropolitan Transit Authority in Austin to hold a binding referendum on the question of whether to build a fixed rail system.
- △ Prohibits the authority from issuing short-term debt or certain bonds, unless the fixed rail system is approved by referendum.

## Audits of the Performance of a Metropolitan Transit Authority - H.B. 2446

*by Representative Greenberg, et al.*  
*Senate Sponsor: Senator Barrientos*

- △ Outlines provisions regarding performance audits of certain metropolitan transit authorities.
  - △ Applies only to a transit authority that was confirmed before July 1, 1985, and does not contain a municipality of more than 750,000.

## Wages for Language Skills of Firefighters and Police Officers - H.B. 2750

*by Representative Hinojosa*  
*Senate Sponsor: Senator Lucio*

- △ Authorizes additional compensatory wages for the use and fluency of an additional language skill other than English for certain municipal firefighters and police officers.
- △ Removes the provision which limited the foreclosure sales to governing bodies of municipalities with a population of 1.5 million or more.
- △ Allows a taxing unit to recover its costs of upkeep, maintenance, and environmental cleanup, without further court order, from the resale proceeds on property located in the taxing unit.

## Meeting About County Advisory Board Member Appointment - H.B. 3448

*by Representatives Jesse Jones and Denny  
Senate Sponsor: Senator Carona*

- △ Allows a commissioners court to debate the appointment of members to an advisory board in closed session.

## Port of Beaumont Navigation District of Jefferson County - H.B. 3500

*by Representative Price  
Senate Sponsor: Senator Galloway*

- △ Provides that the commissioners of the Port of Beaumont Navigation District of Jefferson County (district) serve staggered four-year terms with the terms of three commissioners expiring every two years, rather than serving staggered six-year terms with the terms of two commissioners expiring every two years.
- △ Requires one commissioner to be elected from each of the four wards by the qualified voters of that ward, and requires two commissioners to be elected at large by the qualified voters of the district.
- △ Removes the provision regarding the election of commissioners by the voters of the district-at-large.

## Qualifications of Constables - H.J.R. 83 and H.B. 2071

*by Representative Gutierrez  
Senate Sponsor: Senator Lucio*

- △ Proposes a constitutional amendment to authorize the legislature, by general law, to prescribe the qualifications of constables. **Ballot Date: November 4, 1997.**

## State Water Plan - S.B. 1

*by Senator Brown, et al.*

*House Sponsor: Representative Lewis*

- Δ Addresses Texas water policy in six general areas: drought response management; water management, marketing, and transfers; surface water and groundwater supplies; financial assistance to local governments; small communities assistance; and water data collection and dissemination.

### *Article 1 - Water Planning: Drought, Conservation, Development, and Management*

- Δ Requires the Texas Water Development Board (TWDB) to adopt a comprehensive state water plan every five years beginning September 1, 2001, to provide for the orderly development, management, and conservation of water resources, and the preparation for and response to drought conditions.
  - Δ Requires TWDB to adopt guidance principles for the state water plan which reflect the public interest of the entire state.
  - Δ Requires TWDB to designate regional water planning areas by September 1, 1998.
- Δ Authorizes the legislature to designate certain river or stream segments or sites for conducting a reservoir as being of unique value and prohibits a state agency or political subdivision from obtaining a fee title or easement that would negatively impact this unique value.
- Δ Requires regional water planning groups to submit regional water plans by September 1, 2000, that include specific provisions for water management strategies to be used during times of drought, and legislative recommendations to facilitate voluntary water transfers.
- Δ Requires TWDB to provide technical and financial assistance to regional water planning groups for the development of plans, and to simplify planning requirements in regions with abundant water resources.
- Δ Authorizes the development of a local management plan or project to be submitted to the regional water planning group.
- Δ Requires the Texas Natural Resource Conservation Commission (TNRCC), and TPWD to provide, where appropriate, technical and financial assistance for water resource management, conservation, and drought planning.

# NATURAL RESOURCES

- Δ Requires certain water right holders, groundwater districts, special districts, irrigation districts, and other water users to ensure that their individual plans are not in conflict with applicable approved regional plans for their regions.
- Δ Requires the Division of Emergency Management of the Office of the Governor to coordinate the drought response portion of the state water plan, and creates a drought response and monitoring committee.
- Δ Authorizes TWDB to take all necessary action to qualify for federal assistance in financing development and improvement of regional water plans.
- Δ Requires surface water right holders having an annual appropriation of 1,000 acre-feet a year or more for municipal, industrial, and other uses, and 10,000 acre-feet a year or more for irrigation uses, to develop, submit, and implement a water conservation plan, and all public water suppliers and irrigation districts to develop drought contingency plans.
- Δ Authorizes TWDB to provide money to Texas political subdivisions for conservation, management, and development of water resources outside the state if it is beneficial to the state.
- Δ Authorizes TWDB to provide financial assistance to political subdivisions that are representatives of regional water planning groups, to pay for all or part of regional water management planning.

## *Article 2 - Water Management, Marketing, and Transfers*

- Δ Authorizes water supply and wastewater treatment facility contracts to require the purchaser to develop alternative or replacement supplies prior to the expiration of the contract. Clarifies that if a water supply contract provides express expiration provisions, no continuation of the service obligation is implied.
- Δ Authorizes TNRCC to appropriate a single amount or volume of water for multiple uses.
- Δ Requires a person who wishes to discharge and then subsequently divert and reuse the person's existing return flows from privately owned ground water to obtain TNRCC authorization.
- Δ Provides that water discharged in a state watercourse or stream may not cause a stream segment's water quality classification to be lowered.
- Δ Requires a person who wishes to convey and subsequently divert water in a watercourse or stream to first obtain a "bed and banks" authorization from TNRCC.

# NATURAL RESOURCES

- Δ Authorizes TNRCC to provide for the use of surplus water and for the use and reuse of water by water rights holders prior to its return to a watercourse or stream.
- Δ Requires TNRCC to use defined criteria in determining whether an application for an interbasin transfer should be granted.
- Δ Requires TNRCC to consider defined criteria in determining what constitutes reasonable diligence or a justified nonuse for water rights holders.
- Δ Requires TWDB to establish the Texas Water Trust to hold water rights dedicated to environmental needs.

## *Article 3 - Emergency Authorizations; Enforcement*

- Δ Authorizes TNRCC to assess administrative penalties for violations of certain laws, rules, or orders, not to exceed \$5,000 per day.
- Δ Authorizes TNRCC, under emergency conditions, to transfer surface water from a permittee holding a permit for other than those for domestic or municipal use, to a retail or wholesale water supplier for public health and safety purposes.
- Δ Requires TNRCC to establish and enforce rules and orders to provide for the safe construction, maintenance, repair, and removal of levees.

## *Article 4 - Surface Water and Groundwater Supplies*

- Δ Requires TNRCC to consider the hydrological connection between surface water and groundwater, and consistency with the state water plan or an approved regional water plan before approving a water right permit.
- Δ Authorizes TNRCC to issue permits or permit amendments authorizing the storage of water in aquifers only where completed pilot projects or historically demonstrated projects have been shown to be feasible.
- Δ Authorizes TWDB to make loans to groundwater conservation districts and irrigation districts for brush control activities, precipitation enhancement, and buying and installing irrigation water-flow meters on public or private property.
- Δ Sets forth procedures for identifying, designating, and delineating priority groundwater management areas (PGMA). Requires TNRCC and TWDB to report to the state leadership every odd-numbered year, on the designation of PGMA, and the creation and operation of districts.

# NATURAL RESOURCES

- △ Sets forth procedures for the water management plan to be developed by districts. Requires a district, in coordination with surface water management entities on a regional basis, to develop a comprehensive management plan.
- △ Authorizes a district to promulgate rules requiring a person to obtain a permit from the district for the transfer of groundwater out of the district.
- △ Creates the groundwater district loan assistance fund, to be funded by direct appropriation and by the TWDB from the water assistance fund. Authorizes the fund to be used by TWDB to provide loans to newly confirmed districts and certain legislatively created districts.
- △ Expands the current sales tax exemption for the purchase of pollution control equipment to include water conservation and reuse equipment.

## *Article 5 - Financial Assistance for Water Needs and Conservation*

- △ Authorizes TWDB to use money maintained as principal in the agricultural trust fund to provide loans to certain districts for agricultural water conservation purposes.
- △ Authorizes TWDB to issue water financial assistance general obligation bonds of the state in an aggregate principal amount not to exceed \$250,000,000. Sets forth conditions for issuance, administration, and repayment of water financial assistance bonds.
- △ Creates the Texas Water Development Fund II (fund) to consolidate existing TWDB bond authorizations and to give the fund flexibility.
- △ States the fund consists of a state participation account, an economically distressed areas program account, and a financial assistance account.
- △ Requires all state agencies to give preference to Texas vegetation native to the region for landscaping purposes, if cost is not greater and quality is not inferior.
- △ Requires a wholesale water supplier for a retail public utility to provide TNRCC with a contract within 30 days of execution.

## *Article 6 - Small Communities Assistance*

- △ Allows a regulatory authority to develop methodologies for water or sewer rates which will ensure improved quality or service, encourage regionalization, or maintain financially stable and technically sound utilities.

## NATURAL RESOURCES

- Δ Requires the regulatory authority to assure that rates, operations, and services are just and reasonable to consumers and to utilities.
- Δ Requires TNRCC to use certain guidelines in granting or amending a certificate of public convenience and necessity (CCN).
- Δ Allows TNRCC to revoke or amend an existing CCN without the CCN holder's consent.
- Δ Allows TNRCC to require retail public utilities, with their consent, to serve an area that is decertified.
- Δ Expands TWDB's authorization relating to financial assistance for public water systems, and enacts special provisions at the state level to comply with the 1996 Amendments to the federal Safe Drinking Water Act.
- Δ Requires TNRCC to encourage regional and area-wide drinking water supply systems, ensure such systems are financially stable and technically sound, and consider compliance history in determining issuance of any authorization under the Texas Water Assistance Program.
- Δ Requires a person who wants to build a new public drinking water supply system to submit a business plan to TNRCC for review and approval before beginning construction. Allows TNRCC to require financial assurance of the ability to operate the system in accordance with applicable rules.
- Δ Allows TNRCC to require business plans and financial assurance from existing public drinking water supply systems that were constructed illegally, have a history of non-compliance, or are under a TNRCC enforcement action.
- D Allows TNRCC to order a public water supply system to stop operations if it presents an imminent health hazard to its customers.
- Δ Requires a municipality that makes a wholesale sale of water to a constitutionally created special district to determine the rates for that sale on the same basis as for other similarly situated wholesale purchaser of the municipality's water.
- Δ Creates the water utility improvement account to be used for capital improvement to water or sewer systems or for capital improvements and operating and maintenance expenses for a utility placed in receivership or under a temporary manager.
- Δ Allows certain home rule municipalities to construct and extend a water system that can be used for fire fighting purposes.

# NATURAL RESOURCES

## *Article 7 - Water Data Collection and Dissemination*

- △ Requires TWDB to lead a statewide effort, in coordination with other state and federal agencies and interested parties, to collect and disseminate water resource-related information.
- △ Requires TWDB to determine suitable, cost-effective, water supply alternatives on a regional basis; monitor instream flows and the effects of freshwater inflows into bays and estuaries; develop a network for collecting and disseminating water resource-related information; and consider advice from TPWD.
- △ Requires TNRCC to provide water data to water rights holders and water suppliers so the holders and suppliers can make informed decisions in the management and conservation of water resources.
- △ Creates the Texas Geographical Information Council to provide strategic planning and coordination in the acquisition and use of geo-spatial data and related technologies.

## *Article 8 - Interim Committee on Water Resources Development and Management*

- △ Creates the Interim Committee on Water Resources Development and Management (committee) and sets forth the composition of the committee. Requires the committee to review water-related issues in Texas and develop recommendations.

## *Article 9 - Repealer; Effective Date; Saving; Emergency*

- △ Repeals the Wagstaff Act, which allows a city or town to take any appropriation of water granted after May 17, 1931, for other than municipal or domestic use, without compensation.

**Note:** The constitutional amendment for this bill is S.J.R. 17.

## **State Water Plan Funding - S.J.R. 17**

*by Senator Brown*

*House Sponsor: Representative Lewis*

- △ Creates the Texas Water Development Fund II and authorizes TWDB to administer the fund and issue general obligation bonds for the purposes of the fund. **Ballot Date: November 4, 1997.**

# NATURAL RESOURCES

- △ Allows TWDB to utilize loan repayments which enter the fund after the end of the fiscal year to make bond debt service payments.

**Note:** The enabling legislation for this constitutional amendment is S.B. 1.

## **Disclosure of Environmental Rules - S.B. 633**

*by Senator Brown*

*House Sponsor: Representative Uher*

- △ Requires state agencies that want to propose major environmental regulations that exceed federal regulations, to fully disclose the proposed regulations and prepare a draft impact analysis describing their anticipated effects.
- △ Allows state agencies to bypass this regulation when rules are proposed or adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

## **Oil-Field Cleanup Fund - S.B. 635**

*by Senator Brown*

*House Sponsor: Representative Holzhauser*

- △ Allows the Railroad Commission (RRC) to use money in the Oil-Field Cleanup Fund for conducting site investigations or environmental assessments in determining contamination.
- △ Allows RRC to seek recovery of expenditures from the Oil-Field Cleanup Fund from the responsible party.

## **Alternative Fuels - S.B. 681**

*by Senator Armbrister*

*House Sponsor: Representative Stiles*

- △ Redefines “fleet vehicle” in order to exclude school buses, vehicles used in the maintenance or repair of underground mass transit facilities, and law enforcement or emergency vehicles from alternative fuel requirements.
  - △ The exclusion applies to areas of the state that are considered a serious, severe, or extreme nonattainment areas under federal national ambient air quality standards.
  - △ Requires the mass transit authority to have 50 percent of its fleet vehicles capable of using alternative fuel.

## NATURAL RESOURCES

### Municipal Solid Waste Facilities S.B. 1393 (Died in the House)

Not Finally Passed  
by Senator Conisay

- △ Prohibits issuance of a permit for a new or areal expansion of an existing municipal solid waste facility if the boundary of the landfill is to be located within 1,000 feet of an established residence, place of worship, school, day-care center, surface water body used for public drinking water supply, or dedicated public park, unless a site-specific, risk-based evaluation indicates otherwise.

### Scrap Tire Recycling Program S.B. 1586 (Died in the House)

Not Finally Passed  
by Senator Brogan

- △ Requires TNRCC to require persons who transport scrap tires for end use to maintain certain records to assure the scrap tires are transported to a registered end user.
- △ Requires persons selling new tires not for resale to collect scrap tire recycling fees.
- △ Requires end users, facilities, storage facilities, transporters, processors, generators, or reclamation projects for scrap tires to register with TNRCC. Prohibits TNRCC from registering, renewing, or amending the registration of an applicant who has not submitted evidence of fiscal responsibility, with certain exceptions.
- △ Requires the scrap tire recycling fund (fund) to be used only to pay end users, certain administrative costs of TNRCC and the Comptroller of Public Accounts (comptroller), the cleanup of priority enforcement list sites, and up to \$3 million in grants to generate new end uses.
- △ Sets out when and in what amounts TNRCC must pay eligible end users and certain contractors who transport scrap tires.
- △ Prohibits TNRCC from authorizing a scrap tire energy recovery facility or recycler to burn, recycle, or store scrap tires or tire pieces until TNRCC has determined that the entity is in compliance with all applicable requirements.
- △ Prohibits TNRCC from authorizing a scrap tire processor to process or store scrap tires at a site until TNRCC has determined such entity is in compliance with all applicable requirements.
- △ Sets out the procedure that an end user must follow to obtain payment from TNRCC.

## NATURAL RESOURCES

- △ Changes the limits on what TNRCC and comptroller may expend for performing certain duties related to the scrap tire program.
- △ Allows TNRCC to periodically audit a facility.
- △ Requires TNRCC to have a lien on a site, in favor of the state, for all remediation costs incurred by TNRCC for cleanup.
- △ Requires scrap tire processors, end users, and transporters to give TNRCC notice of voluntary or involuntary bankruptcy.
- △ Makes it a state jail felony to burn or dump scrap tires or tire pieces, except as authorized by TNRCC. Provides for a civil penalty.
- △ Provides for an administrative penalty in an amount not to exceed \$10,000 for each violation.
- △ Establishes the method by which any unexpended money in the scrap tire recycling fund as of September 1, 1997, is to be appropriated and used.

### **Boll Weevil Eradication Program - S.B. 1814**

*by Senator Duncan, et al.*

*House Sponsor: Representative Junell, et al.*

- △ Requires the Department of Agriculture (department) to recognize the Texas Boll Weevil Eradication Foundation, Inc. (foundation) as the entity to plan, carry out, and operate boll weevil and pink bollworm eradication programs under the department's supervision.
- △ Sets out statutory eradication zones.
- △ Authorizes the commissioner of agriculture (commissioner) to designate proposed eradication zones and to hold public hearings concerning the geographic boundaries of such zones. Requires a referendum to determine whether cotton growers within that zone desire to establish a zone.
- △ Authorizes the commissioner to designate an interim advisory group for each statutory or proposed eradication zone to gather advice, guidance, and input from cotton growers.
- △ Requires the commissioner to propose the maximum assessment to be paid by growers within an eradication zone. Sets out the criteria the commissioner must use in proposing an assessment.

## NATURAL RESOURCES

- △ Requires the commissioner to conduct a certain referenda in proposed or established eradication zones, such as the approval of a proposed maximum assessment and the election of board members.
- △ Sets forth board membership requirements, rights, and duties.
- △ Expands the authority of the commissioner, requiring the commissioner to approve certain acts of the board. Gives the commissioner, on petition by 30 percent of cotton growers eligible to vote within a proposed area, the power to transfer an area from one statutory zone to another.
- △ Requires the commissioner to establish informal procedures for resolving claims arising from acts by the foundation. Provides for appeal and judicial review.
- △ Sets out liability of certain individuals who contract with the foundation to apply pesticides or chemicals as part of an eradication program. Requires the foundation to carry certain liability coverage.
- △ Requires that a cotton grower who fails to pay an assessment be granted an opportunity for a hearing.
  - △ Requires the commissioner to set the penalty for failure to pay an assessment, and sets out the criteria for determining the amount of the penalty. The commissioner may reduce or waive assessment penalties as appropriate and necessary.
- △ Requires the department to give notice by publication in newspapers of the planned schedule for the entry by the department, foundation, or their representatives onto cotton growers' premises.
- △ Requires the commissioner to approve any agreements entered into by the foundation with another party to carry out boll weevil eradication. Certain agreements must be approved by referendum.
- △ Transfers rulemaking authority from the foundation to the commissioner.
- △ Requires the board to issue an annual report on its eradication efforts.
- △ Sets out the foundation's exemption from lawsuits, liability, taxation, and legal process as a quasi-governmental entity.
- △ Requires the commissioner to adopt rules for the use of biological, botanical, and non-synthetic pest control methods.

# NATURAL RESOURCES

- Δ Ratifies previous agreements made, obligations incurred, and assessments imposed by the foundation and certain rules adopted by the commissioner.
- Δ Requires retention, board, or eradication referenda to be held in a certain zones by set dates.
- Δ Requires the foundation, not later than 30 days after the effective date of this Act, to make necessary changes to its board so that the commissioner may appoint members as set out in the Act. If the foundation fails to do so, the commissioner may cancel the foundation's designation and designate another nonprofit organization.
- Δ Reenacts certain sections of Chapter 74 of the Agriculture Code (Cotton diseases and pests), including:
  - Δ conduct of eradication zone referendum and board elections;
  - Δ board duties and compensation;
  - Δ discontinuance of the eradication program and foundation;
  - Δ authority of the commissioner to ban the planting of cotton and require participation in an eradication program;
  - Δ authority of the department to destroy, treat, or quarantine cotton;
  - Δ the requirement that the commissioner adopt rules to protect persons, livestock, and wildlife in an eradication zone;
  - Δ authority of the department to issue permits and certificates; and
  - Δ sunset provisions providing that the board is abolished September 1, 2004, unless otherwise continued.

## **Inspection and Maintenance of Certain Motor Vehicles for Air Pollution Control - S.B. 1856**

*by Senator Wentworth  
House Sponsor: Representative Chisum*

- Δ Amends the Clean Air Act of the Health and Safety Code:
  - Δ Sets out which gasoline-powered vehicles are subject to the emissions inspection and maintenance program (program).

## NATURAL RESOURCES

- Δ Requires the Department of Public Safety (DPS) and TNRCC to jointly develop a program for enforcing emission standards using remote or automatic emissions detection and analysis equipment in counties designated as nonattainment areas under the federal Clean Air Act.
- Δ Authorizes TNRCC by rule to adopt standards and specifications for motor vehicle testing equipment, record keeping and reporting procedures, and emissions standards.
- Δ Requires DPS by rule to adopt testing procedures in accordance with motor vehicle emissions testing equipment specifications and procedures for issuing or denying an emissions inspection certificate.
- Δ Requires DPS to ensure compliance with the motor vehicle emissions program through a vehicle inspection sticker-based enforcement system, except as otherwise provided.
- Δ Requires the Public Safety Commission (PSC) to establish a program as required by federal law or the state's air quality implementation plan.
- Δ Allows a facility that performs safety inspections to also perform vehicle emissions inspections if the facility is authorized and certified by DPS to perform safety and emission inspections.
- Δ Requires PSC to develop and impose requirements to ensure that an inspection certificate is not issued to a vehicle subject to a program unless the vehicle has passed a motor vehicle emissions inspection at a facility authorized and certified by DPS.
- Δ Allows DPS to authorize and certify inspection stations as necessary to implement the program, and to impose inspection fees and sets out the costs such fees must be based on.
- Δ Requires DPS to provide inspection certificates for distribution and issuance at certified inspection stations.
- Δ Provides that the owner of a motor vehicle registered in a nonattainment area commits an offense if the vehicle emits certain pollutants in excess of U.S. environmental laws.
- Δ Expands when DPS may deny, revoke, or suspend a certificate for an inspection station or inspector and place on probation or reprimand persons holding certificates. Sets out penalties, notification requirements and hearing procedures. Allows DPS to provide that revocation or suspension takes effect upon the receipt of notice for certain offenses in order to remedy a threat to public health, safety, or welfare.

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- △ Expands the provision concerning general offenses, setting out specific offenses and including inspectors and inspection stations. Makes an offense a Class C misdemeanor, unless otherwise specified in the chapter.
- △ Expands provisions making it an offense to display fictitious inspection certificates to include counterfeit or altered certificates or insurance documents and includes additional offenses. Sets out penalties.
- △ Provides that a record created during a motor vehicle emissions inspection relating to an individual owner or vehicle is exempt from certain open records requirements.

## **Regulation of Poultry Operations - S.B. 1910**

*by Senator Ratliff*

*House Sponsor: Representative Glaze*

- △ Requires persons owning or operating a poultry facility to ensure that the facility has adequate means to handle and dispose of poultry carcasses, litter, and other waste, regardless of whether the person owns the poultry.
- △ Requires TNRCC to adopt rules to regulate the safe and adequate handling, storage, transportation, and disposal of poultry carcasses. Sets out what the rules must contain.
- △ Requires a person to obtain a permit as required under other law before disposing of poultry carcasses.

## **Licensing of Waste Haulers by Certain Counties - H.B. 473**

*by Representatives Howard and Olivo*

*Senate Sponsor: Senator Armbrister*

- △ Expands to counties with populations of less than 375,000 provisions authorizing the commissioners courts to implement a licensing program for waste haulers transporting waste to unincorporated areas of the county.

## **Regulating the Disposal or Temporary Storage of Litter or Solid Waste - H.B. 717**

*by Representatives Bosse and Krusee*

*Senate Sponsor: Senator Whitmire*

- △ Authorizes TNRCC to regulate, by rule, temporary storage for future disposal of litter or solid waste by a person on land owned by that person or that person's agent.

- △ Exempts an individual's disposal of litter or solid waste if:
  - △ the litter or solid waste is generated on the land owned by that individual;
  - △ the litter or solid waste is not generated as the result of activity related to a commercial purpose;
  - △ the disposal is on land owned by the individual; and
  - △ the disposal is not for a commercial purpose.

## **Regulation of Herbicides and Pesticides - H.B. 1144**

*by Representative Turner, et al.*

*Senate Sponsor: Senator Brown*

- △ Consolidates laws regulating the use of herbicides and pesticides under the jurisdiction of the Texas Department of Agriculture (TDA).
- △ Provides that registration of a pesticide is not required if the pesticide is not for use in this state and is being manufactured, transported, or distributed for use only outside of this state.
- △ Prohibits the Texas Feed and Fertilizer Control Service from registering a fertilizer that contains a pesticide that must be registered with TDA unless the constituent pesticide is first registered with TDA. Requires a registered pesticide to continue to be registered as long as the pesticide remains in the channels of trade in this state.
- △ Prohibits a pesticide dealer from distributing a restricted-use or state-limited-use pesticide or a regulated herbicide except to certain persons.
- △ Requires a person required to obtain a dealer's license to record each distribution of a restricted-use or state-limited-use pesticide or regulated herbicide and maintain a copy of the record for at least two years after the date of distribution.
- △ Prohibits a person from purchasing a restricted-use or state-limited-use pesticide or regulated herbicide unless the person is licensed or a certified applicator or authorized by a licensed or certified applicator to purchase or take delivery for the applicator.

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- △ Requires TDA to approve appropriate training courses for an original private applicator license developed under the coordination of the Texas Agricultural Extension Service and to be conducted by other governmental agencies or nongovernmental entities. Prohibits a certified private applicator from supervising the use of restricted-use and state-limited-use pesticides or regulated herbicides.
- △ Allows TDA to require each commercial or noncommercial applicator licensee to keep records of the licensee's application of a specific restricted-use or state-limited-use pesticide or regulated herbicide and requires those records to be kept separate from other business records. Requires each private applicator to maintain records of regulated herbicide and state-limited-use pesticide applications and to maintain those records of restricted-use pesticide applications required by federal law.
- △ Prohibits a person who is licensed to practice veterinary medicine by the State Board of Veterinary Medical Examiners and who is only using a restricted-use or state-limited-use pesticide or a regulated herbicide as a drug or medication during the course of the veterinarian's normal practice or as a private applicator from being required to obtain a license under this chapter to purchase or use the restricted-use or state-limited-use pesticide or regulated herbicides.
- △ Requires certain information regarding stored pesticides to be furnished to the fire chief of the fire department having jurisdiction over the storage place. Authorizes the fire chief to conduct on-site inspections of the pesticides stored for the sole purpose of preparing fire department activities in case of an emergency.
- △ Sets forth procedures for regulating the use of certain herbicides.
- △ Sets forth procedures to be followed following the filing of a complaint by a person claiming adverse effects from an application of a pesticide. Provides that failure to file a complaint does not bar a civil or criminal action from being filed and maintained.
- △ Provides that a person commits an offense if the person violates Section 76.071(a) (illegal distribution of certain pesticides and herbicides), has a permit to apply a powder or dry-type regulated herbicide and applies a herbicide that does not meet certain requirements, violates a rule adopted under this chapter, or fails to keep or submit records in violation of this chapter.

## Texas Clean Rivers Act - H.B. 1190

*by Representative Counts, et al.*  
*Senate Sponsor: Senator Armbrister*

- △ Makes substantial changes to the Texas Clean Rivers Act to implement the recommendations of the Clean Rivers Stakeholders Workgroup. Continues the funding mechanism for the Clean Rivers Program.
- △ Requires TNRCC, in order to ensure clean water, to establish the strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basin of the state.
  - △ Provides that the water quality monitoring and reporting duties apply only to a river authority that has entered into an agreement with TNRCC to perform those duties.
- △ Requires a river authority, in order to assist in the coordination and development of assessments and reports, to organize and lead a basin-wide steering committee.
- △ Provides that the purpose of the monitoring and assessment is to identify significant issues affecting water quality within each watershed and river basin of the state, rather than to mandate exhaustive and detailed water quality studies.
- △ Requires TNRCC to ensure that program funds are equitably apportioned among basins.
  - △ Requires costs recovered by TNRCC to be deposited to the water quality fund and to be used only to accomplish watershed monitoring.
- △ Requires water quality management functions to be oriented on a watershed basis in consideration of the priorities identified by river authorities and basin steering committees.
- △ Requires TNRCC to adopt rules to make the optimum use of state and federal funding and grant programs related to water quality programs of TNRCC.
- △ Requires TNRCC to develop standards based on all quality assured data obtained by TNRCC, including the local watershed and river basin database.
- △ Sets forth provisions applicable if the watershed water quality assessment reports or other TNRCC assessments or studies identify water pollution attributable to non-permitted sources in a city that has a population of 10,000 or more.

## Regulations for Consolidated Permit Processing by TNRCC - H.B. 1228

*by Representative Jackson, et al.*  
*Senate Sponsor: Senator Brown*

- Δ Provides regulations for consolidated permit processing by TNRCC.
- Δ Sets forth procedures to be followed for issuing and renewing one consolidated permit to a plant, facility, or site that is required to have more than one permit issued by TNRCC.
- Δ Authorizes an applicant to request that consolidated applications be processed separately as determined by the executive director.
- Δ Requires TNRCC, in determining whether an urgent public necessity exists for the permitting of a hazardous waste injection well in a solution-mined salt dome cavern, to find that there is a substantial public need, for additional hazardous waste disposal capacity.

## Agricultural Fences - H.B. 1630

*by Representative Berlanga*  
*Senate Sponsor: Senator Armbrister*

- Δ Requires a fence, in order to be sufficient, to be built and maintained according to generally accepted agricultural practices for the purpose of keeping animals out of a tract of land.
- Δ Removes existing requirements for agricultural fences, including a provision allowing the freeholders of a county or area to petition the commissioners court for an election to determine alternate requirements for barbed wire fences.

## Illegal Poaching - H.B. 1941

*by Representative Place, et al.*  
*Senate Sponsor: Senator Armbrister*

- Δ Sets forth several penalties for poaching including:
  - Δ First time violation - A person commits a Class B Parks and Wildlife Code misdemeanor and is punishable in addition by the revocation or suspension of hunting and fishing licenses and permits.
  - Δ Second time violation - A person commits a Class A Parks and Wildlife Code misdemeanor and is punishable in addition by the revocation or suspension of hunting and fishing licenses and permits.

- Δ Third time or subsequent violation - A person commits a state jail felony and is punishable in addition by the revocation or suspension of hunting and fishing licenses and permits.
- Δ Sets forth provisions regarding the automatic revocation of hunting or fishing license or permit.

## **Regulation of State Superfund Sites - H.B. 2776**

*by Representative Jackson*

*Senate Sponsor: Senator Brown*

- Δ Authorizes the executive director (director) of TNRCC to use the hazardous and solid waste remediation fee fund (fund) for the cleanup or removal of a spill, release, or threat of a hazardous substance on certain sites if:
  - Δ an immediate action is appropriate to protect human health or the environment and it is likely that the cleanup or removal will prevent the site from being listed in the state registry of sites that may constitute an endangerment to public health and safety; or
  - Δ the cleanup or removal can be completed without extensive investigation and planning and will achieve a significant cost reduction for the site.
- Δ Prohibits TNRCC from using certain funds for cleaning up a waste tire recycling facility, municipal solid waste facility, petroleum storage tank, or certain used oil collection and recycling sites.
- Δ Requires the director, before listing a facility in the state registry, to determine whether the potential endangerment can be resolved through a voluntary cleanup program.
- Δ Sets forth the terms under which the director is required to hold a public meeting regarding the appropriate use of land on which a facility is located that is subject to a remedial investigation/feasibility study.
- Δ Allows the director to request that TNRCC delete a facility from the state registry.
- Δ Requires the director to determine whether to prepare an affidavit to impose a lien for remedial costs on real property.

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- △ Requires TNRCC to file a cost recovery action against each responsible party for the total costs of certain actions taken to cleanup or remove spills or releases of hazardous wastes.
- △ Requires the court, in apportioning costs of eliminating a release of hazardous wastes, to credit a responsible party for that party's expenditures related to the cleanup if the cleanup was approved by the director of TNRCC.
- △ Allows a person conducting a remedial action approved by TNRCC to bring suit to recover the reasonable and necessary costs of the action.
- △ Sets forth the liability of a fiduciary, a lender, and an innocent owner or operator of property for the release of solid waste from a solid waste facility.
- △ Provides that TNRCC is delegated all purchasing functions relating to the registry and clean-up of certain hazardous waste facilities.

## **Revision of Parks and Wildlife Provisions - H.B. 2542**

*by Representative Kuempel  
Senate Sponsor: Senator Brown*

- △ Provides regulations regarding drawings to select applicants for public fishing and other special events privileges.
- △ Revises regulations regarding the handling of certain animals killed as a result of hunting.
- △ Sets forth regulations regarding deer management permits.
- △ Prohibits a person from intentionally applying contraceptives to any vertebrate wildlife resource unless the person first obtains written authorization from the TPWD.
- △ Sets forth regulations regarding hunting and fishing by persons under the age of 17.
- △ Requires TPWD to implement a crab license management program. Sets forth regulations regarding the program.

## Electric Utility and Maintenance Contracts by TNRCC - H.B. 3059

*by Representative King*  
*Senate Sponsor: Senator Wentworth*

- Δ Requires an electric utility to compile a weekly list of addresses located in an unincorporated area of the county for each county in the state at which the utility has made new electric service connections during the preceding week.
- Δ Allows TNRCC to require a property owner to repair a malfunctioning on-site sewage disposal system on the owner's property.
- Δ Sets forth provisions regarding the maintenance of contracts and the issuance of performance bonds for sewage disposal systems by TNRCC.

## Management of White-Tailed Deer - H.B. 3061

*by Representative Hightower, et al.*  
*Senate Sponsor: Senator Armbrister*

- Δ Authorizes the Parks and Wildlife Department to issue a permit for the management of the wild white-tailed deer population on acreage enclosed by a fence capable of retaining white-tailed deer and capable of preventing entry by a white-tailed deer.
  - Δ Provides that the deer managed under the permit remain the property of the people of the State of Texas, and the holder of the permit is considered to be managing the population on behalf of the state.
  - Δ Sets forth penalties for violating the regulations and permits issued relating to the management of the deer population.

## Environmental Health and Safety Audits - H.B. 3459

*by Representative Chisum*  
*Senate Sponsor: Senator Brown*

- Δ Amends the Texas Environmental, Health, and Safety Audit Privilege Act (Act).
  - Δ Strikes provisions providing that audit reports are privileged and are not admissible in criminal proceedings or enforcement actions.

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- △ Prohibits the Act from being construed to circumvent protections provided by federal or state law for individuals who disclose information to law enforcement authorities.
- △ Provides that obtaining, using, or reviewing of an audit report in a criminal proceeding or a review by a regulatory agency under specific state or federal law does not waive the administrative or civil evidentiary privileges created by the Act, and sets out procedures for suppressing such evidence in civil proceedings.
- △ Subjects a public entity, official, or employee who discloses an audit report disclosed under a claim of confidentiality to a governmental official or agency to a penalty under Texas open records law.
- △ Provides for a fine not to exceed \$10,000 if a court finds that a person intentionally or knowingly claimed a privilege under the Act for unprotected information.
- △ Requires a governmental authority to notify a person claiming privilege under the Act of the potential for public disclosure when a specific state or federal law requires the information to be made available to the public.
- △ Deprives a person who makes a voluntary disclosure of a violation of an environmental or health or safety law of immunity from a civil or administrative penalty when the violation resulted in a substantial economic benefit, which gave the violator a clear advantage over its business competitors.

## Securities Regulation - S.B. 221

*by Senator Sibley*

*House Sponsor: Representative Brimer*

- △ Allows a real estate broker or salesman to enter into property management agreements that do not have definite termination dates.

## Streamlining of Retail Store Regulations - S.B. 1355

*by Senators Brown and Ellis*

*House Sponsor: Representative Maxey*

- △ Streamlines grocery store regulations by eliminating duplication in state licensing requirements and food safety inspections.
- △ Creates an Interagency Task Force on Texas Retail Food Store Regulation to further study regulation and report to the legislature.

## Unauthorized Harvesting of Timber - H.B. 1128

*by Representative Kamel, et al.*

*Senate Sponsor: Senator Ogden, et al.*

- △ Provides regulations regarding the harvesting of and payment for timber.
  - △ Provides that a person who harvests standing timber with knowledge that the harvesting is without the permission of the timber's owner is liable for damages in an amount equal to three times the market price of the timber harvested without permission.

## Alcoholic Beverage Advertising - H.B. 2997

*by Representative Delwin Jones*

*Senate Sponsor: Senator Duncan*

- △ Authorizes the placement of a billboard advertising alcoholic beverages in an area where the sale of alcoholic beverages is prohibited by law, under the following conditions:
  - △ the premises that the billboard advertises are located in a county with a population of 250,000 or less; and
  - △ the billboard is within 1,500 feet of the premises that the billboard advertises; and
  - △ a U.S. highway that merges into and becomes an interstate highway separates the premises and the billboard; or

- Δ the billboard is located adjacent to a wet precinct separated by a U.S. highway that merges into and becomes an interstate highway in a county with a population of 250,000 or less and advertises directions to a winery located in the adjacent wet precinct.

## **Wine Tasting Fee - H.B. 3176**

*by Representative Delwin Jones*

*Senate Sponsor: Senator Duncan*

- Δ Allows wineries to conduct wine samplings and tastings on approved premises and to collect a fee for the sampling.
  - Δ Prohibits a sampling event from being advertised except by on-site communication or direct mail.
  - Δ Prohibits a person who receives a wine sample from removing the sample from the premises.
- Δ Provides that the holder of a permit, during the sampling of wine, is not the holder of a permit authorizing the sale of alcoholic beverages for on-premises consumption; and is not considered to have received any revenue from the on-premises sale of alcoholic beverages.

**Tax Collection Contracting - S.B. 461**

*by Senator Moncrief*

*House Sponsor: Representative Maxey*

- Δ Enacts a Texas Performance Review recommendation to allow the comptroller to contract with vendors on a contingency basis to create an advanced database system to enhance state tax collections.
- Δ Allows the comptroller to contract with private companies on a contingency basis to perform out-of-state audits in states without comptroller field offices, in order to maximize collections from out-of-state businesses.

**Alcoholic Beverage Advertising - S.B. 484**

*by Senator Moncrief*

*House Sponsor: Representative Carter*

- Δ Allows a retail establishment licensed by the Texas Alcoholic Beverage Commission (TABC) to have one sign containing the establishment's name at each entrance or side of the building, regardless of whether the name contains the words "beer," "wine," or "liquor."
- Δ Allows TABC to promulgate rules allowing for temporary billboards at charitable or civic events.

**Professional Engineers - S.B. 623**

*by Senator Ratliff, et al.*

*House Sponsor: Representative Uher*

- Δ Updates the Texas Engineering Practice Act to make it more consistent with the national model law of the National Council of Examiners for Engineering and Surveying and the practices of other state agencies, which includes instituting administrative penalties for certain violations.

**Aircraft Use in Advertising Alcoholic Beverages - S.B. 672**

*by Senator Armbrister*

*House Sponsor: Representative Goolsby*

- Δ Allows an aircraft to be used in alcoholic beverage advertising or promotion.

**Governmental Actions that Constitute a Taking of Real Property - S.B. 1389 (Died in the House)**

*by Senator Lira  
House Sponsor: Representative Hamric*

- Δ Amends the definition of “taking” under the Texas Private Real Property Rights Preservation Act to exclude private real property which is not subject to the governmental action, but is merely near or adjacent to private real property that is the subject of such action.

**Coordination of Colonia Initiatives - S.B. 1514**

*by Senator Lira  
House Sponsor: Representative Flores*

- Δ Sets forth a system for coordination of colonia initiatives among the following state agencies: the Office of the Attorney General, the Texas Education Agency, the Texas Department of Health, the Texas Department of Housing and Community Affairs, the Texas Natural Resource Conservation Commission, the Texas Water Development Board, the University of Texas--Pan American, and the Texas Workforce Commission.
- Δ Requires the coordinator of colonia initiatives for the Office of the Attorney General to preside over the group of coordinators designated by the other state agencies for the coordination of colonia initiatives.

**Education Programs in Colonias - H.B. 540**

*by Representative Serna  
Senate Sponsor: Senator Shapleigh*

- Δ Authorizes the Texas Department of Housing and Community Affairs to include educational curricula at self-help centers, which would provide monthly programs to inform individuals and families on their rights and responsibilities as property owners.

**Mandatory Boater Education for Young Boaters - H.B. 966**

*by Representative Oakley, et al.  
Senate Sponsor: Senator Barrientos, et al.*

- Δ Prohibits a person who is under 16 years of age from operating a boat in public waters, unless the person is accompanied by a person at least 18 years of age; or is at least 13 years of age and has successfully completed a boater education course prescribed by the Parks and Wildlife Department.

- Δ Authorizes a justice to defer the imposition of a fine imposed upon a person who violates for the first time a provision relating to water safety. Requires the justice to require the person to successfully complete a boater education course. Requires the justice to waive imposition of a fine if the defendant successfully completes the course.
- Δ Requires violators of certain water safety provisions to pay a fine and successfully complete a boater education course.

### **Destruction of Dangerous Dogs - H.B. 991**

*by Representatives Wohlgemuth and Culberson*

*Senate Sponsor: Senator Lindsay*

- Δ Requires a justice of a municipal court to order the destruction of dogs deemed dangerous and which have caused seriously bodily injury. Requires a court to release the dog to its owner or duly authorized person if the court does not find destruction warranted.

- Δ Prohibits the destruction of the dog if:

- Δ a trespasser is less than eight years of age and the dog's enclosure was reasonably secure;
- Δ a person at least eight years of age trespassed in the enclosure and the dog was being used for protection of persons or property; and
- Δ the dog was being used for law enforcement purposes.

### **Administration and Financing of Emergency Communications - H.B. 1324**

*by Representatives Carter and Keel*

*Senate Sponsor: Senator Cain*

- Δ Authorizes the Advisory Commission on State Emergency Communications (advisory commission) to obtain a commercial license or sublicense to sell 9-1-1 or poison control public education and training materials in this or other states, and also to use all profits from the sales for purposes of the advisory commission.
- Δ Provides that certain information including information in address databases is confidential and not open for public inspection.

- Δ Provides for certain exemptions from liability for a service provider or third party for the release of information furnished by the service provider or third party in providing computerized 9-1-1 services.
- Δ Provides that certain information that relates to the verification or auditing of emergency service fees or surcharge remittances and that includes access line or market share information of an individual provider is confidential and not available for public inspection.
- Δ Requires the advisory commission to maintain and update at least annually a list of provisions or rules that have been adopted by emergency communication districts.
- Δ Provides that a 9-1-1 service provider is responsible for correctly billing and remitting applicable 9-1-1 fees, charges and surcharges and makes stipulations for erroneous billing or remittances made to the advisory commission, a regional planning commission, or an emergency communication district.

### **Community Reinvestment Work Group - H.B. 1414**

*by Representative Van de Putte*

*Senate Sponsor: Senator Ellis*

- Δ Creates a Community Reinvestment Work Group (group) to develop strategies to meet the reinvestment needs of low- and moderate-income communities statewide in conjunction with the Federal Community Reinvestment Act.
- Δ Develops statewide community reinvestment strategies using existing investment pools and other investment vehicles to leverage private capital from banks, insurance companies, and other entities for community development in the state.

- Δ Requires the group to:
  - Δ explore innovative qualified investment strategies;
  - Δ ensure to the extent possible that the strategies encourage financial institutions in this state to lend money to low-income and moderate-income families and individuals in the state;
  - Δ coordinate its efforts to attract private capital through investments that meet the requirements of the Community Reinvestment Act of 1977;
  - Δ ensure to the extent possible that the strategies augment existing Community Reinvestment Act of 1977 programs in the state, including the operation of local community development corporations.
- Δ Requires the group to submit a report each biennium to the legislature regarding the effectiveness of the group's strategies.

### **Location of Missing Children Through Record Keeping - H.B. 1516**

*by Representative Thompson, et al.*

*Senate Sponsor: Senator Harris*

- Δ Provides a system for flagging the birth certificate and school records of missing children under the age of 11 in order to aid law enforcement agencies in locating missing children.
- Δ Requires a school, when enrolling a child under 11 years of age in the school for the first time, to obtain certain information including the names of the previous schools attended by the child, school records from the previous schools, and if the child was not born in the United States, a certified copy of the child's birth certificate or other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.
- Δ Requires the school to notify a law enforcement agency if the above information is not provided within 31 days.
- Δ Requires law enforcement agencies to inform certain persons when the agency receives a report that a child under 11 years of age is missing. Requires a school, day care facility, or birth certificate agency to flag a child's record when the school, facility, or agency receives notice that the child is missing.

- △ Requires a law enforcement agency, if a missing child was born in or attended a school or licensed day care facility in another state, to notify law enforcement or the missing and exploited children clearinghouse in each appropriate state regarding the missing child, and request the law enforcement agency or clearinghouse to contact the state birth certificate agency and each school or licensed day care facility the missing child attended to flag the missing child's records.
- △ Sets forth procedures to be followed when a school, day care facility, or birth certificate agency receives a request concerning a flagged record.
- △ Requires a law enforcement agency to inform certain persons of the return of a missing child under 11 years of age. Requires a school, day care facility, or birth certificate agency, upon receiving notification that a missing child has been returned, to remove the flag from the child's records.

## **Texas Underground Facility Notification System - H.B. 2295**

*by Representative Oakley, et al.  
Senate Sponsor: Senator Cain*

- △ Creates the Texas Underground Facility Notification Corporation (TUNC) to provide statewide underground facility notification services, and requires a Class A facility operator to pay TUNC a \$50 fee for services to be performed during that calendar year.
- △ Requires each operator of Class A underground facility to participate in a notification center, which must be capable of receiving emergency information 24 hours a day from excavators and disseminate the information to the appropriate operators and to all registered and affected notification centers.
- △ Requires an excavator to make one telephone call to a notification center that is registered with TUNC, prior to an excavation. Requires the notification center to notify the proper underground facility operators that may have facilities in the vicinity of the proposed excavation operation. Requires the underground facility operators contacted by the notification center to mark the approximate location of their own underground facilities at or near the site of the proposed excavation if the operators believe that such markings are necessary. The markings required by this Act will allow an excavation to be made without damage to any underground facility, without interruption of utility service, and without danger to the excavator and the general public caused by underground facility damage.
- △ Sets forth civil penalties for an excavator who violates this Act.

- △ Provides that a person commits a Class B misdemeanor if the person, without authorization from the owner or operator of an underground facility, intentionally removes, damages, or conceals a marker or sign giving information about the location of the facility and notice of a criminal penalty.

## **Employment Discrimination Based on Religion and Age - H.B. 3048**

*by Representative Hodge  
Senate Sponsor: Senator Cain*

- △ Includes discrimination based on religion and age as an unlawful employment practice to conform the state's employment discrimination statutes with federal law.

## **Disaster Response Legislation - H.B. 3074**

*By Representative Gray  
Senate Sponsor: Senator Armbrister*

- △ Allows for the mitigation of, preparedness for, response to, and recovery from disasters.
- △ Sets forth provisions regarding the mitigation of disasters, rather than prevention of disasters.
- △ Authorizes the governor, acting through members of the Emergency Management Council, to remove debris or wreckage from public or private land or water if it threatens public health or safety.
- △ Provides that a county emergency management program is the first channel through which a municipal corporation shall request assistance when its resources are exceeded. Requires requests that exceed the county capability to be forwarded to the state as prescribed in the state emergency management plan.

## **Home Equity Lending - H.J.R. 31**

*by Representative Patterson, et al.*

*Senate Sponsor: Senators Patterson and Harris*

- Δ Proposes a constitutional amendment permitting an encumbrance against homestead property for home equity loans. **Ballot Date: November 4, 1997.**
  - Δ Allows a homeowner to borrow up to 80 percent of the fair market value of his or her home.
  - Δ Requires home equity loan foreclosures to be reviewed by a state judge.
  - Δ Allows reverse mortgages for people 55 years old or older.
  - Δ Prohibits home equity loans secured against homesteads designated for agriculture, except for dairy farms.
  - Δ Allows homeowners 12 days to back out of a home improvement loan, and an additional three days to back out of the home improvement contract.
  - Δ Requires home equity loans to be closed at a lending institution, a lawyer's office, or a title company.

**State Office of Administrative Hearings/Sunset - S.B. 330**

*by Senator Armbrister*

*House Sponsor: Representative McCall*

- Δ Makes the State Office of Administrative Hearings subject to review under the Texas Sunset Act.
- Δ Requires the office to be reviewed in 2003.

**Texas National Guard Armory Board/Sunset - S.B. 352**

*by Senator Armbrister*

*House Sponsor: Rep. Hightower*

- Δ Continues the Texas National Guard Armory Board, as recommended by the Sunset Advisory Commission, makes certain modifications including changes affecting the board's composition, and transfers property to certain Texas cities.

**Department of the Adjutant General/Sunset - S.B. 353**

*by Senator Armbrister*

*House Sponsor: Representative Hightower*

- Δ Continues the Department of the Adjutant General until 2009, as recommended by the Sunset Advisory Commission, and makes modifications as recommended by the commission.
- Δ Sets out when an accused may petition the Texas Court of Military Appeals for review of a court martial conviction.
- Δ Requires the assets management division to notify the adjutant general before evaluating property under the management and control of the adjutant general or the Texas National Guard Armory Board.
- Δ Provides that if the adjutant general has submitted a report determining that real property under the management and control of the adjutant general or the Texas National Guard Armory Board is used for military purposes, the commissioner of the general land office may not recommend a real estate transaction involving that real property.

**Credit Union Commission/Sunset - S.B. 358**

*by Senator Brown*

*House Sponsor: Representative Telford*

- Δ Provides for the continuation of the Credit Union Commission for a four-year period and makes various technical statutory modifications recommended by the Sunset Advisory Commission.

**Sunset Review of Certain Agencies - S.B. 360**

*by Senator Armbrister*

*House Sponsor: Representative Stiles*

- Δ Postpones the Sunset Commission review of several unrelated agencies to allow the commission to concentrate efforts on the state's health and human services agencies during the upcoming biennium.
- Δ Adds the State Office of Administrative Hearings to the sunset review schedule for 2003 and sets the Texas Board of Private Investigators and Private Security Agencies for review in 1999.
- Δ Adds the Texas Housing Corporation to the sunset review schedule for 2001.

**Texas State Board of Acupuncture Examiners/Sunset-  
S.B. 361**

*by Senator Madla*

*House Sponsor: Representative Gray*

- Δ Continues the Texas State Board of Acupuncture Examiners (board) after Sunset review.
  - Δ Clarifies the definition of acupuncture to limit it to the nonsurgical, nonincisive insertion of an acupuncture needle.
  - Δ Changes the eligibility requirements for board membership and the powers and duties of the board; and requires training for board members.
- Δ Changes the requirements to obtain a temporary license, and provides the license is valid for up to 130 days.
- Δ Adds standard language developed by the Sunset Commission regarding restrictions on advertising to prohibit false, misleading, or deceptive practices, and regarding the issuance and renewal of licenses.

- Δ Authorizes a license to be denied, suspended, probated, or revoked if the applicant is adjudged to be mentally incompetent, or has a mental or physical condition that renders the licensee unable to perform safely as an acupuncturist. Expands the list of actions which may result in penalties.
- Δ Sets forth procedures for the imposition of a nondisciplinary rehabilitation order.

### **Department of Information Resources/Sunset - S.B. 365**

*by Senator Armbrister  
House Sponsor: Representative Bosse*

- Δ Provides for the continuation of the Department of Information Resources and makes various statutory modifications recommended by the Sunset Advisory Commission.

### **Texas Commission on Jail Standards/Sunset - S.B. 367**

*by Senator Brown, et al.  
House Sponsor: Representative Hightower*

- Δ Provides for the continuation of the Texas Commission on Jail Standards for a 12-year period and makes various statutory modifications recommended by the Sunset Advisory Commission.

### **Texas Commission on Fire Protection/Sunset - S.B. 371**

*by Senator Armbrister  
House Sponsor: Representative Telford*

- Δ Provides for continuation of the Texas Commission on Fire Protection and adds provisions regarding functions of the commission.

### **Purchasing Client Services by State Agencies - S.B. 1240**

*by Senator [unclear]  
House Sponsor: Representative Maxey*

- Δ Requires the Health and Human Services Commission (commission) to coordinate and adopt rules to govern the purchasing by state agencies of health and human services for their clients. These health and human services include medical care, nursing home care, adult day care, community-based residential care for children, substance abuse counseling, and mental health and mental retardation services.

- Δ Provides that the commission's rules adopted under this Act will apply directly to health and human services agencies. Requires other state agencies to adopt rules governing purchases of health and human services for their clients that are consistent with the rules adopted by the commission.
- Δ Requires the commission to preside over a working group to research the laws that govern the purchasing of health and human services by state agencies for their clients and to develop recommendations on the feasibility and advisability of merging those laws into a single comprehensive statute or otherwise clarifying the laws that governs those purchases.
- Δ Requires the comptroller, with the help of the commission, to study the costs and benefits of developing a statewide contract management information system for managing the purchasing of health and human services by state agencies for their clients.

### **State Facility Leases H.B. 733**

*by Representative Raymond  
Senate Sponsor: Senator Shapleigh*

- Δ Establishes a pilot program to develop private, commercial uses for certain state-owned parking lots and garages in the City of Austin. All of the proceeds collected under the pilot program would be deposited to the general revenue fund.
- Δ Allows the General Services Commission (GSC) to contract with a private vendor to manage the commercial use of state-owned parking facilities.
- Δ Removes limitations on leasing building space to private tenants and requires GSC or a state agency with charge and control of a state building to prescribe rules relating to short-term leases with private tenants.
- Δ Allows GSC or a state agency with charge and control of a state building to enter into a short-term lease for a period not to exceed seven days with a private tenant for use of certain facilities.

### **Texas Public Finance Authority/Sunset - H.B. 1077**

*by Representative Telford  
Senate Sponsor: Senator Armbrister*

- Δ Provides for the continuation of the Texas Public Finance Authority (authority) for a 12-year period and makes various statutory modifications recommended by the Sunset Advisory Commission.

- Δ Improves the authority's interaction with client agencies by requiring an early, plain language orientation to the authority's bond issuance process.
- Δ Adds the Texas Low-Level Radioactive Waste Disposal Authority, Midwestern State University, Stephen F. Austin State University, and Texas Southern University to those agencies and institutions of which the authority has the exclusive authority to act on their behalf, in issuing bonds on their behalf.
- Δ Requires the authority to maintain a file about each written complaint, and to notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.
- Δ Sets forth qualifications of a board member. Requires the board to provide for public testimony.

### **Sick Leave for State Employees - H.B. 1177**

*by Representative Hochberg*  
*Senate Sponsor: Senator Ellis*

- Δ Authorizes a state employee to use up to eight hours of sick leave each calendar year to attend parent-teacher conference sessions for the employee's child who is a student attending a grade from prekindergarten through 12th grade.
- Δ Requires an employee to give reasonable advance notice of the employee's intention to use sick leave to attend a parent-teacher conference.

### **Automobile Theft Authority/Sunset - H.B. 1387**

*by Representative Gray*  
*Senator Sponsor: Senator Armbrister*

- Δ Provides for the continuation of the Automobile Theft Prevention Authority (authority).
  - Δ Clarifies the relationship between the authority and the Texas Department of Transportation.
  - Δ Sets an eight percent cap on administrative expenditures.

**State Agencies Electronic Mail Address on the Internet -  
H.B. 1556**

*by Representatives Greenberg and King  
Senate Sponsor: Senator Armbrister*

- Δ Recommends that every state agency establish an electronic mail address on the Internet and use electronic mail to communicate with the public.

**Funding of 911 Services and Regional Poison Control  
Centers - H.B. 1668**

*by Representative Junell  
Senate Sponsor: Senator Cain*

- Δ Requires the Public Utility Commission of Texas (PUC) to monitor the establishment of emergency service fees and an equalization surcharge, including the allocation of revenue.
- Δ Establishes the terms by which the Advisory Commission on State Emergency Communications (ACSEC) will provide documentation to PUC each year regarding fee rates and revenue allocation, and by which PUC will review the documentation and allocations derived therefrom and also identified by ACSEC.
- Δ Requires PUC to provide certain comments to ACSEC, the governor, and the Legislative Budget Board upon determining that a recommended rate or allocation is not appropriate.
  - Δ Establishes the terms by which PUC is allowed to review and make comments regarding a rate or allocation in an informal proceeding.

**Commission on Law Enforcement Officer Standards and  
Education/Sunset - H.B. 1856**

*by Representative Telford  
Senate Sponsor: Senator Armbrister*

- Δ Provides for the continuation of the Commission on Law Enforcement Officer Standards and Education until September 1, 2009 and makes modifications as recommended by the Sunset Advisory Commission.

**Texas Commission on Alcohol and Drug Abuse/Sunset -  
H.B. 2119**

*by Representative Bosse  
Senate Sponsor: Senator Madla*

- Δ Extends the Texas Commission on Alcohol and Drug Abuse (TCADA) for 12 more years, and sets forth statutory modifications recommended by the Sunset Commission.
- Δ Requires the Sunset Commission, in conjunction with its review of health and human service agencies for presentation to the 76th Legislature, to study whether treatment programs of TCADA should be transferred to MHMR and TDH.

**Functions of the Texas Department of Housing and  
Community Affairs - H.B. 2577**

*by Representative Hill, et al.  
Senate Sponsor: Senator Lucio*

- Δ Redefines the powers, functions, and duties of the Department of Housing and Community Affairs (department), and the renamed Texas State Affordable Housing Corporation (corporation).
  - Δ Provides that the purposes of the department are to provide for the housing needs of individuals and families of low and very low income and families of moderate income.
  - Δ Sets forth provisions regarding the establishment of 501(c)(3) bonding authority by the legislature.
  - Δ Requires the charter of the corporation to establish the corporation as nonprofit and specifically dedicate the corporation's activities to certain public purposes.

**Retirement Benefits for Texas Workforce Commission  
Employees - H.B. 2915**

*by Representative Oliveira, et al.  
Senate Sponsor: Senator Ellis*

- Δ Provides Texas Workforce Commission employees who are displaced by privatization of job training services currently provided by the state with additional retirement benefits.

- Δ Provides that a local workforce development board that contracts with a private entity to perform certain services to require as a term of the contract that employees of the entity employed under the contract be entitled to receive compensation and employee benefits comparable to those of state employees.

### **Texas Youth Commission/Sunset - H.B. 2074**

*by Representative Hightower  
Senate Sponsor: Senator Brown*

- Δ Continues the functions of the Texas Youth Commission (TYC) after Sunset Commission review.
- Δ Requires TYC to:
  - Δ include clearly defined goals, sanctions, and reporting requirements in each contract for the purchase of residential program-related client services.
  - Δ establish a formal program to monitor residential program-related client services contracts made by TYC that monitors compliance with performance requirements and evaluates program cost information.
  - Δ apply for benefits under the federal Medicaid program if application is cost-effective in reducing incurred health care costs.
- Δ Updates current law to adopt standard language developed by Sunset Commission regarding the terms of service and appointment of TYC board members, state and federal program and facility accessibility laws, annual financial reports, professional information for members and employees, the separation of board policymaking responsibilities from the management responsibilities of the executive director, inter-agency career ladder program, service complaints, and public hearings.

### **Texas Energy Coordination Council - H.B. 3492**

*by Representative Holzhauser  
Senate Sponsor: Senator Brown*

- Δ Eliminates the Texas Committee on Energy Policy, and adjusts the responsibilities, duties, and powers of the Texas Energy Coordination Council to help coordinate energy research in Texas.

**Texas Memorial Stadium - S.B. 438**

*by Senator Armbrister*

*House Sponsor: Representative Uher*

- △ Exempts the Darrell K. Royal-Texas Memorial Stadium from statutes protecting the view of the Texas State Capitol through site corridors.

**State Cemetery - S.B. 973**

*by Senator Barrientos*

*House Sponsor: Representative Hunter*

- △ Creates a State Cemetery Committee to oversee the cemetery and determine which Texans are to be interred in the state cemetery. In addition, the bill transfers 50 acres to serve as a cemetery annex and allows the State Cemetery Committee to acquire land to expand the original site.

**Exempting State-Owned Real Property from Forced Sale -  
H.B. 833**

*by Representative Junell*

*Senate Sponsor: Senator Brown*

- △ Exempts all real property of the state and political subdivisions of the state from attachment, execution, and forced sale.
  - △ Bars a judgment lien or abstract of judgment from being filed or perfected against real property of the state or a political subdivision of the state, and provides such lien or abstract is void and unenforceable.

**State History Museum - H.B. 1107**

*by Representative Telford*

*Senate Sponsor: Senator Moncrief*

- △ Allows the State Preservation Board to construct a state history museum to be located within the Capitol Complex.

**Texas Emancipation Juneteenth Cultural and Historical  
Commission - H.B. 1216**

*by Representative Edwards, et al.*

*Senate Sponsor: Senator Patterson*

- Δ Establishes the Texas Emancipation Juneteenth Cultural and Historical Commission (commission) to coordinate state and local activities related to the cultural and historical celebration of Juneteenth, and to establish a Juneteenth memorial monument.
- Δ Provides that unless continued in existence as provided by the Texas Sunset Act, the commission is abolished and will expire September 1, 2001.
- Δ Outlines provisions governing board membership and commission procedures.

**Acquisition of Real Property as an Alternative to Leasing  
Space - H.B. 3368**

*by Representative Junell*

*Senate Sponsor: Senator Shapiro*

- Δ Allows the General Services Commission (GSC) to meet space needs of state agencies by constructing buildings, as well as purchasing buildings.
- Δ Requires GSC to determine that constructing or purchasing a building to meet space is cost-effective in comparison to leasing space.

## **Slate Cards at Polling Places - S.B. 82**

*by Senator Ellis, et al.*

*House Sponsors: Representatives Denny and Danburg*

- △ Allows voters the option of carrying "slate cards" (which include sample ballots and other forms of written communication) into the polling place, and requires election officers to periodically check areas of the polling place to remove discarded slate cards.

## **Judicial Campaign Fairness Act - S.B. 96**

*by Senator Ellis*

*House Sponsor: Representative Madden*

- △ Redefines "noncomplying candidate" to include a judicial candidate who fails to file a declaration of intent to comply with or exceed campaign expenditure limits.
- △ Requires a judicial candidate to abide by the prohibition on accepting contributions after 120 days of either a general or a runoff election, if the candidate has no opponent for the election.
- △ Requires a judicial candidate or officeholder, who receives a political contribution over the contribution limit, to return the contribution within five days or by the last day of the reporting period in which the contribution was received, whichever is later.
- △ Prohibits a judicial candidate or officeholder from accepting political contributions from law firms in excess of \$50.
- △ Limits the amount of political contributions for supporting or opposing a candidate or officeholder, by or to candidates, officeholders, or specific-purpose committees.
  - △ Provides that these limits do not apply to a political contribution made to the state or county political parties and executive committees.
  - △ Provides that a person who violates this provision is liable for a civil penalty not to exceed three times the amount of the violating contribution.

**Early Voting Period - S.B. 292**

*by Senator Carona*

*House Sponsor: Representative Galloway, et al.*

- △ Shortens the period for early voting by personal appearance. The beginning of the early voting period would change to the 17th day before election day, rather than the current 20th day before election day, and would continue through the seventh day, rather than the fourth day, prior to election day.

**Voter Registration Applications - S.B. 500**

*by Senator Zaffirini*

*House Sponsor: Representative Danburg, et al.*

- △ Requires most voter registration applications to include an applicant's driver's license number, thereby enabling the state and counties to identify duplicate registrations.

**Fair Campaign Practices - H.B. 35**

*by Representative Goolsby, et al.*

*Senate Sponsor: Senator Cain*

- △ Establishes a voluntary Code of Fair Campaign Practices (code) for candidates seeking public office.
- △ Provides that the purpose is to encourage every candidate and political committee to subscribe to the code, which provides that there are basic principles of decency, honesty, and fair play that every candidate and political committee in this state has a moral obligation to observe and uphold in campaigning, so that Texas' citizens may exercise their constitutional rights to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.
  - △ Sets forth the specific tenets of the code and the Texas Ethics Commission's (TEC) and other filing authorities' responsibilities in regard to dissemination and administration of the code.
- △ Provides that the subscription to the code by a candidate or a political committee is voluntary.
- △ Allows a candidate or a political committee that has filed a copy of the code to so indicate on political advertisement as determined by TEC.
- △ Provides that this chapter does not create a civil cause of action for recovery of damages or for enforcement of this chapter.

**Political Contributions in Judicial Elections - H.B. 131**

*by Representative Madden*  
*Senate Sponsor: Senator Ellis*

- Δ Sets forth provisions regarding political contributions made in connection with certain judicial offices.
  - Δ Applies only to a person appointed to fill a judicial vacancy.
  - Δ Restricts the time period in which the appointed officeholder may accept political contributions.

**Extended Voting Hours - H.B. 324**

*by Representatives Maxey and Greenberg*  
*Senate Sponsor: Senator Barrientos*

- Δ Extends the hours for early voting from 8:30 a.m. until 4:30 p.m. to 7 a.m. until 7 p.m. for city elections conducted in a city in a county in which all the members of a governing body are elected on an at-large basis, and with a population of 450,000 or more, in order to make municipal elections more accessible to those who work during the day.

**Election Procedures - H.B. 330**

*by Representative Danburg, et al.*  
*Senate Sponsor: Senator Shapiro, et al.*

- Δ Establishes a ballot stub to be prepared and attached to the official ballot for use by a voter who executes an affidavit of voter eligibility.
- Δ Sets forth the information to be printed on the ballot stub as prescribed by the secretary of state.
- Δ Requires the presiding judge to enter certain information including the polling place number, the designation of the nature of the election, and the date of the election on the ballot stub.
- Δ Sets forth provisions regarding the determination of a voter's identity by the presiding judge.
- Δ Sets forth provisions regarding acceptable documentation as proof of identification for a person who wishes to vote in an election but needs certain verification.

**Election Processes and Procedures - H.B. 331**

*by Representative Danburg, et al.*

*Senate Sponsor: Senator Madla, et al.*

- △ Sets forth regulations regarding a variety of election processes and procedures, including the selection of election judges, acceptable proof of identification for voting, voting by mail, electronic transmission of ballots, computerized voting, and joint primaries.
- △ Allows a tying candidate to resolve the tie by filing a written statement of withdrawal signed and acknowledged by the candidate.
- △ Requires the presiding election judge and alternate presiding election judge to be affiliated or aligned with different political parties. Sets forth procedures for appointing election judges.
- △ Provides that a person is ineligible to serve as an election judge or clerk if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.
- △ Sets forth regulations regarding the use of a nickname by a candidate.
- △ Requires a presiding judge, if a voter's right to vote is challenged, to request the voter to present proof of identification and to execute an affidavit that states the facts necessary to support the voter's eligibility to vote. Sets forth acceptable documentation of proof of identification. Sets forth procedures to be followed if the identity of the voter cannot be established or the voter refuses to execute an affidavit.
- △ Sets forth regulations regarding the counting of a marked ballot voted by mail and eligibility for voting by mail.
- △ Requires the secretary of state to prescribe procedures to allow certain persons who are casting an early voting ballot by mail to return the ballot by telephonic facsimile machine or similar electronic means.
- △ Requires the secretary of state to prescribe procedures allow certain voters to apply for and cast a state write-in ballot before the time a voter may receive a regular ballot to be voted by mail.
- △ Sets forth regulations regarding computerized voting system standards.
- △ Prohibits a candidate from filing declarations of intent for two or more offices meeting certain requirements.

- △ Allows the primary elections in a county to be conducted jointly at the regular polling places designated for the general election for state and county officers. Sets forth regulations regarding joint primaries.
- △ Provides that the restrictions on multiple methods of voting at the same polling place or in early voting do not apply to a joint election as if the joint election were a single election but rather apply independently to the election of each participating political subdivision in the joint election.

### **Voter Registration of Certain Convicts - H.B. 1001**

*by Representative Dutton*  
*Senate Sponsor: Senator Cain*

- △ Clarifies that a person convicted of a felony must have fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court, in order to be eligible for registration as a voter in this state.

### **Mail-in Ballot Fraud - H.B. 1257**

*by Representative Cuellar*  
*Senate Sponsor: Senator Brown*

- △ Amends early voting procedures and provides a criminal penalty for voter fraud.
  - △ Requires an application for a mail-in ballot to include certain information regarding age, disability, confinement in jail, or on any other grounds for which the applicant is applying for the ballot.
  - △ Requires the address to which the balloting materials is addressed to be the address at which the voter is registered to vote, unless the ground for voting by mail is age, disability, or confinement in jail.

### **Early Voting Procedures - H.B. 1483**

*by Representative Danburg, et al.*  
*Senate Sponsor: Senator Armbrister*

- △ Sets forth provisions for early voting by mail and in person at designated polling places.
- △ Prohibits a common or contract carrier from being used in early voting procedures, unless the carrier meets certain qualifications.

- △ Amends the early voting ballot application form to include spaces or boxes for an applicant applying on the grounds of age or disability, confinement in jail, a space for entering the name of any person assisting the applicant, and statements informing the applicant of certain early voting procedures and penalties.
- △ Requires the early voting clerk to sign the early voting ballots to be used at the polling place.
- △ Provides that movable temporary branch polling places may be used with approval from the county clerk.
- △ Sets forth prohibitions for the delivery of ballots which originated from certain locations.
- △ Requires the person assisting a voter in certain circumstances to sign a written oath prescribed in this bill.
- △ Sets forth provisions for the signature verification committee regarding the verification of signatures on the application for an early voting ballot and on the early voting ballot.
- △ Sets forth provisions regarding the appointment and duties of the signature verification committee.
- △ Provides penalties for noncompliance with the provisions of this Act.

### **Prohibition on Voting by the Mentally Incompetent - H.J.R. 104**

*by Representative Mowery  
Senate Sponsor: Senator Ogden*

- △ Proposes a constitutional amendment to prohibit certain persons from voting, including persons who have been determined mentally incompetent by a court, subject to such exceptions as the legislature may provide. **Ballot Date: November 4, 1997.**
- △ Abolishes duplicate legal provisions relating to residency requirements for voters and general provisions relating to the voting process.

## **Limitations on Gifts to State Agencies - S.B. 145**

*by Senator Nixon*

*House Sponsors: Representatives Christian and Hunter*

- Δ Provides a uniform policy for the acceptance of gifts given to state agencies having the authority to accept gifts.
- Δ Authorizes the governing board of a state agency to accept a gift only if a majority of the board, in an open meeting, agree to accept the gift. Requires acceptance of the gift to be appropriately recorded.
- Δ Prohibits the state agency from accepting gifts from parties in contested cases before the agency until 30 days after a final decision in the case.
- Δ Clarifies that the Office of the Governor, rather than the governor himself or herself, accepts gifts on behalf of the state. Authorizes the governor to solicit as well as accept gifts.

## **Preservation of Public Records - S.B. 436**

*by Senator Lucio*

*House Sponsor: Representative Ron Lewis*

- Δ Allows the county clerk to set and collect a records archive fee of not more than \$10 from any person who presents a public document to the county clerk for recording or filing.
  - Δ Requires the fee to be placed in a separate account in the county general fund and utilized by the county clerk only to preserve and restore the public records and archives.
  - Δ Prohibits the county clerk from collecting fees after the county records archive preservation and restoration is complete.

## **Administrative Lobbying - S.B. 1333**

*by Senator Ellis*

*House Sponsor: Representative Hunter*

- Δ Requires state agencies to file reports containing information on persons representing other persons for compensation before a state agency to the Texas Ethics Commission, instead of the Secretary of State.

**Gift Acceptance by the Secretary of State - S.B. 1903**

*by Senator Truan*

*House Sponsor: Representative Hunter*

- △ Authorizes the secretary of state to accept certain gifts, grants, and donations related to the office of the secretary of state on behalf of the state.

**Releasing of Information Relating to Motor Vehicle**

**Accident H.B. 399**

*by Representative Goodman, et al.*

*Senate Sponsor: Senator Ratliff*

- △ Provides that information that is held by the Department of Public Safety DPS or another governmental entity and that relates to a motor vehicle accident is privileged and for the confidential use of DPS and an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.
- △ Requires DPS or another governmental entity to release the information to governmental entities, law enforcement agencies, and courts on written request and payment of any required fee.
- △ Requires DPS or other governmental entity to request information on a written form adopted by DPS or governmental entity to determine whether the person or entity requesting the information is entitled to receive the information.

**HUB Certification - H.B. 625**

*by Representative Hernandez*

*Senate Sponsor: Senator Madla*

- △ Exempts information submitted in an application for certification as a historically underutilized or disadvantaged business from disclosure and public information laws.

**Open Records Information - H.B. 951**

*by Representative Turner*

*Senate Sponsor: Senator Wentworth*

- △ Clarifies the open records statute to ensure that persons requesting copies of public information are charged only for the cost of the copies.

**Lottery & Bingo Records Subject to Open Records Act -  
H.B. 2768**

*by Representative Goolsby*  
*Senate Sponsor: Senator Carona*

- Δ Provides that all Lottery Commission records regarding lottery and bingo are subject to public inspection in accordance with the Open Records Act.
  - Δ Lottery information regarding the selection of winning tickets, the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information, and operational security plans remain confidential and are exempt from disclosure.

**Candidate and Officeholder Activity Reports - H.B. 3207**

*by Representative Wolens*  
*Senate Sponsor: Senator Armbrister*

- Δ Outlines provisions and provides a civil penalty regarding the regulation of political contributions and expenditures and political advertising, the registration of lobbyists, personal financial disclosure by certain holders of and candidates for public office, restrictions on certain representation before a state agency by a member of the legislature, and the publication of summaries of opinions of the Texas Ethics Commission.
- Δ Requires a campaign treasurer appointment by a candidate to include the candidate's telephone number and a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code.
- Δ Provides that a report filed under this chapter is considered to be under oath by the person required to file the report, regardless of the absence of or defect in the affidavit of verification, including a signature.
- Δ Provides that a person required to file a report under this chapter is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or defect in the affidavit of verification.
  - Δ Sets forth requirements and provisions regarding the preservation of reports and a record of inspection.
- Δ Requires a notice to be written on each political advertising sign.

- △ Provides that if the deadline under which a candidate files an application for a place on the ballot falls after the 35th day before the date of the election in which the candidate is running, the candidate shall file the statement not later than the 5th day before the date of that election.
- △ Provides that a member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless the member discloses to the agency that the member is being compensated for the representation.
  - △ Provides that a county or district officer or candidate commits an offense if the officer or candidate knowingly fails to file a statement as required by this subchapter.
- △ Authorizes the commissioner's court of a county with a population of less than 125,000 to adopt, by order, a financial disclosure reporting system for the county auditor.

### **Prohibitions on Gifts to and Certain Future Employment of Lottery Employees - H.B. 3370**

*by Representative Junell*

*Senate Sponsor: Senator Armbrister*

- △ Prohibits a current or former (before the second anniversary of the date that the person's service ceased), Texas Lottery Commission member, executive director, or employee of the commission from intentionally or knowingly accepting a gift or political contribution from interested parties.
- △ Makes presenting a gift or making a political contribution to a person known by the actor to be a current or former commission member, executive director, or employee of the commission, if the actor is a person listed above a Class A misdemeanor.
- △ Makes it a Class A misdemeanor for a former commission member, former executive director, or former director to:
  - △ represent a person, for compensation, that has made or intends to make a bid to operate the lottery before the second anniversary of the date that the person's service with the commission ceases;
  - △ represent any person or receiving compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the commission; or

- Δ communicate, for compensation, directly with a member of the legislative branch to influence legislation on behalf of a person that has a significant financial interest in the lottery, before the second anniversary of the date that the person's service with the commission ceases.

### **Bank Accounts of Candidates for Public Office - H.B. 3569**

*by Representatives Madden and Naishtat*

*Senate Sponsor: Senator Shapiro*

- Δ Gives a candidate for public office access to information regarding all financial transactions involved in the candidate's campaign.
- Δ Prohibits a financial institution from opening an account in the name of a candidate for public office without obtaining that candidate's consent and signature.

**Motorcycle Helmets - S.B. 99**

*by Senator Patterson, et al.*

*House Sponsor: Representative Pitts*

- △ Repeals the portion of current law that requires adults operating or riding on a motorcycle to wear protective headgear.
- △ Maintains the helmet requirement for operators or passengers under the age of 21, and provides for a fine between \$10 and \$50 for those not complying.
- △ Requires that in order to be exempt from wearing a helmet, an operator or passenger must complete a motorcycle operator training and safety course or be covered by a health insurance plan providing the person with at least \$10,000 in medical benefits for injuries incurred as a result of an accident while operating or riding on a motorcycle.
- △ Creates a "Motorcycle Education Fund Account" from various motorcycle operator fees to promote motorcycle safety awareness.

**License Plates for Volunteer Advocates - S.B. 460**

*by Senator Shapiro, et al.*

*House Sponsor: Representative Cuellar*

- △ Requires the Texas Department of Transportation (TxDOT) to issue specially designed volunteer advocate (otherwise known as court appointed special advocates—CASA) license plates.
- △ Requires TxDOT to issue a license plate to an individual who pays an annual fee of \$30, in addition to other license plate fees.
  - △ Requires TxDOT to deposit \$25 of the fee to the credit of the attorney general volunteer advocate program and \$5 to the credit of the state highway fund.

**Information Reported on Driving Records - S.B. 1268**

*by Senator Armbrister*

*House Sponsor: Representative Siebert*

- △ Provides that only convictions for motor vehicle moving violations, as determined by the Department of Public Safety (DPS), will be reported on a driver's record. Prohibits the inclusion of nonmoving violations, the reporting of which may increase the cost of a driver's personal automobile insurance coverage.

**Disabled Parking Program - H.B. 580**

*By Representative Coleman, et al.*

*Senate Sponsor: Senator Moncrief*

- Δ Updates provisions regarding the application for and use of a disabled parking placard to provide for improved enforcement and administration of the program.
- Δ Requires a disabled parking placard to bear a hologram designed to prevent the reproduction of the placard or the production of a counterfeit placard.
- Δ Specifies the medical proof necessary to obtain a disabled parking placard.
- Δ Authorizes a political subdivision to appoint a person to have authority to file a charge against a person who commits an offense relating to use of a disabled parking placard.
- Δ Authorizes a law enforcement officer (officer) to seize any disabled parking placard if the officer believes a person has committed an offense relating to the improper use of a disabled parking placard. Requires the officer to determine within 48 hours after the seizure whether or not probable cause existed to believe that an offense was committed. Requires TxDOT to conduct a hearing and determine whether the revocation should continue or the placard should be returned to the person and the revocation rescinded if the officer determines that probable cause did exist when the placard was seized.

**Extended Driver's Licenses - H.B. 1200**

*by Representative Cuellar, et al.*

*Senate Sponsor: Senator Brown*

- Δ Provides that a license issued to a person 60 years of age or older does not expire.
- Δ Extends the time for renewal of a license from four years to six years.
- Δ Provides that the fee for the issuance or renewal of a license not otherwise provided for is \$24, and the fee for renewal of a Class M license is \$32. Requires the fee for a driver's license to be increased by \$8, if the Class A, B, or C driver's license includes an authorization to operate a motorcycle or moped.

- Δ Provides that the fee for a personal identification certificate is \$15 for a person under 60 years of age. Provides that the fee for a commercial driver's license or commercial driver learner's permit issued by the department is \$60. Provides that the fee for the driver's license or permit is increased by \$8, if a commercial driver's license or commercial driver learner's permit includes an authorization to operate a motorcycle or moped.
- Δ Authorizes DPS to provide for the staggered expiration of licenses, permits, and certificates. Requires the fees to be prorated based on the staggered expiration of licenses, permits, and certificates.

### **Vehicle Registration Options - H.B. 1306**

*by Representative Reyna  
Senate Sponsor: Senator Nelson*

- Δ Allows new car vehicle registrations to be made at the owner's option for one, two, or three years.

### **Proof of Insurance - H.B. 2067**

*by Representatives Swinford and Horn  
Senate Sponsor: Senator Bivins*

- Δ Requires persons obtaining a temporary vehicle registration permit to provide proof of financial responsibility.
  - Δ Allows a person to obtain a permit by applying at one of the Texas Department of Transportation's vehicle title and registration regional offices.

**Apportionment of the State of Texas into State Senate  
Districts - S.B. 715**

*by Senator Barrientos*

*House Sponsor: Representative Delwin Jones*

- △ Sets out the boundaries of the single-member districts for the Texas Senate.
  - △ Provides that these districts apply beginning with the primary and general elections in 1998 for the members of the 76th Legislature.
  - △ States that this apportionment constitutes a continuation of the districts established by the 72nd Legislature, as modified by a federal court order, and it is the legislature's intent that this bill is not an apportionment of the senate under the Texas Constitution.

**Apportionment of Certain Parts of Texas into State  
Representative Districts - H.B. 6**

*by Representatives Delwin Jones and Gutierrez*

*Senate Sponsor: Senator Barrientos*

- △ Sets out the boundaries of certain state representative districts.
  - △ Provides that these districts apply beginning with the primary and general elections in 1998 for the members of the 76th Legislature.

**Apportionment of Certain Parts of Texas into State  
Representative Districts - H.B. 2254**

*by Representative Delwin Jones*

*Senate Sponsor: Senator Barrientos*

- △ Sets out the boundaries of certain state representative districts.
  - △ Provides that these districts apply beginning with the primary and general elections in 1998 for the members of the 76th Legislature.

## **Enhanced Oil Recovery Projects - S.B. 582**

*by Senators Ratliff and Bivins*

*House Sponsor: Representative Holzheuser*

- △ Extends the application period for a new enhanced oil recovery project or expansion of an existing enhanced oil recovery project from the current ending date of January 1, 1998, to a new ending date of January 1, 2008, in effect extending the existing oil severance tax incentives for new and expanded enhanced oil recovery projects. The extension does not apply to co-production projects.

## **Federal Work Opportunity Tax Credit - S.B. 1113**

*by Senator Ellis, et al.*

*House Sponsor: Representative Raymond*

- △ Designates the Texas Workforce Commission (commission) as the lead agency in promoting awareness of the federal work opportunity tax credit program and the state tax refund for wages paid to employees receiving financial assistance. The tax credit is allowed in an amount equal to 20 percent of the total wages of applicable employees, up to a maximum of \$10,000 in wages for each applicable employee. The tax credit is allowed in an amount equal to 20 percent of the total wages of applicable employees, up to a maximum of \$10,000 in wages for each applicable employee.
- △ Requires the commission, in coordination with the Comptroller's Office and the Texas Department of Human Services, to develop and distribute educational materials designed to increase awareness of the tax credit and tax refund programs described above.
- △ Provides employers with additional insurance options to broaden an employer's eligibility under the state tax incentive program.

## **Voluntary Designation of Homestead - H.B. 882**

*by Representative Horn*

*Senate Sponsor: Senator Nelson*

- △ Provides that the property on which a person receives an exemption from taxation under Section 11.43, Tax Code, is considered the person's designated homestead if the property is listed as the person's residence homestead on the most recent appraisal roll for the appraisal district.
  - △ Sets forth exceptions to this designation, including property affirmatively designated as the homestead; or the designation of a homestead in aid of enforcement of a judgment.

## Sales Tax Exemption for Certain Property Used in Manufacturing - H.B. 1855

*by Representative Eiland*

*Senate Sponsor: Senator Ratliff*

- △ Limits the sales tax exemption for certain property used in manufacturing by specifying that to qualify for the exemption, tangible personal property must be directly used or consumed in the actual manufacturing process and must directly make or cause a chemical or physical change to the product being manufactured for ultimate sale.
  - △ Specifies that the provisions above do not apply to certain semiconductor fabrication cleanrooms and equipment.
- △ Exempts from sales taxation: actuators, steam production equipment and its fuel, in-process flow through tanks, cooling towers, generators, heat exchangers, electronic control room equipment, computerized control units, compressors, and hydraulic units, that are used to power, supply, support, or control equipment that qualifies for exemption under the provision above, or to generate electricity, chilled water, or steam for ultimate sale.
- △ Exempts from sales taxation: machinery, equipment, and replacement parts or accessories used or consumed in the manufacturing, processing, or fabrication of tangible personal property for ultimate sale if their use or consumption is necessary and essential to a pollution control process.
- △ Clarifies the definition of intraplant transportation equipment which is not exempt from sales tax to include those items of intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process. Piping and conveyor systems are identified specifically as intraplant transportation equipment and do not qualify for the exemption from sales tax.
  - △ Specifies that the provisions above do not apply to certain semiconductor fabrication cleanrooms and equipment.
  - △ Piping which is a component part of an exempt item of machinery or pollution control equipment retains the exemption.
- △ Provides that machinery and equipment, or supplies used to maintain or store tangible personal property are not eligible for the sales tax exemption.
  - △ Specifies that the provisions above do not apply to certain semiconductor fabrication cleanrooms and equipment.

## **Appraisal Protests - S.B. 93**

*by Senator Patterson*

*House Sponsor: Representative Heflin*

- △ Requires the chief appraiser of each appraisal district, each year, to publicize in a manner designed to notify all residents of the district, provisions of the "Right of Protest" and the method by which a property owner may protest an action before the appraisal review board.

## **Seizure of Abandoned Real Property - S.B. 141**

*by Senator Cain*

*House Sponsors: Representatives Oakley and Giddings*

- △ Grants power to a county to seize and sell abandoned real property, which is not in a municipality of the county, for delinquent property taxes.
- △ Prohibits the property seized by the county from being sold for an amount less than the lesser of the market value of the property or the total amount of taxes due on the property.

## **Property Tax Exemption - S.B. 344**

*by Senator Harris*

*House Sponsor: Representative Brimer*

- △ Allows a property tax exemption for a private school to remain in effect if the owner transferred or sold the school property, but continued to operate the school and use the property for the same qualifying school purposes.

## **Property Tax Exemption - S.B. 485**

*by Senator Brown*

*House Sponsor: Representative Hartnett*

- △ Exempts from property taxation a person whose stake in a multi-party mineral interest has a taxable value of less than \$500.

## **Property Tax Reforms - S.B. 841**

*by Senator Cain, et al.*

*House Sponsor: Representative Hilbert*

- △ Provides that an appraisal district is governed by a board of five directors, who are appointed by the taxing units that participate in the district, and sets out who is eligible to serve. A county assessor-collector serves as a nonvoting director, if not appointed to the board.

- Δ Increases the maximum number of auxiliary members the board of directors of an appraisal district may appoint for a county, depending on that county's population.
- Δ Prohibits a person from receiving a residence homestead tax exemption for more than one residence homestead in the same year.
- Δ Provides for the limitation of property taxes for persons 65 years or older to be applicable to certain surviving spouses, depending on when the individual who qualified for the residence homestead died.
- Δ Provides that if an individual who had received a limitation on tax increases imposed under Section 11.26 of the Tax Code (Limitation of School Tax on Homesteads of Elderly) subsequently qualifies a different homestead for a residence homestead exemption, the total amount of school district property taxes imposed on the new homestead may not exceed the amount of school taxes that would have been imposed in the first year in which the person received the homestead exemption for that homestead, had the limitation on school tax increases not been in effect, multiplied by a fraction of which:
  - Δ the numerator is the total amount of school taxes imposed on the former homestead in the last year in which the person received the homestead exemption the former homestead; and
  - Δ the denominator is that total amount of school taxes that would have been imposed on the former homestead in the last year in which the person received the homestead exemption had the limitation on school tax increases not been in effect.
- Δ Contains contingency provisions for the inclusion of the transfer allowed for persons 65 years of age or older of their frozen property tax levies and other provisions. The provision will be included if either H.J.R. 4 or S.J.R. 43 is approved by the voters.
- Δ Provides that if a person is the partial owner of exempt property, the exemption shall be multiplied by a fraction, of which the numerator is the value of the person's property interest and the denominator is the property's value.
- Δ Provides for immediate effect of homestead, charitable, surviving spouses, and other exemptions.
- Δ Sets out what information must be required on an application form for an exemption.

- △ Includes the mass appraisal standards recognized by the Uniform Standards of Professional Appraisal Practice in the methods and techniques used in determining the market value of property.
- △ Sets out how a chief appraiser must apply the cost, income, or market data methods of appraisal.
- △ Requires notices of appraised value to include a detailed explanation of the procedure for protesting the value.
- △ Provides that a governing body may not adopt a tax rate that if applied to the total taxable value would impose an amount of taxes that exceeds last year's levy.
- △ Adds Section 23.23 to the Tax Code, which provides that the appraised value of a residence homestead may not exceed the lesser of:
  - △ the property's market value; or
  - △ the sum of 10 percent of the appraised value of the property for the last year the property was appraised times the number of years since the property was last appraised, the appraised value of the property for the last year it was appraised, and the market value of all new improvements.
- △ Provides that a delinquent tax incurs a penalty of 50 percent of the amount of the tax without regard to the number of months the tax has been delinquent, if the property owner had received certain exemptions that were subsequently canceled by the chief appraiser because that person did not qualify for certain enumerated reasons.
- △ Provides that a person is entitled to defer or abate a suit to collect a delinquent tax imposed on a portion of that individual's residence homestead that exceeds the sum of 105 percent of the appraised value of the property for the preceding year and the market value of all subsequent property improvements. Sets out the procedure for obtaining such deferral or abatement, when the deferral or abatement applies, how to calculate the amount of taxes which may be deferred, and the attachment and calculation of the tax lien.
- △ Requires an appraisal review board to provide for protest hearings in evenings and on weekends.
- △ Provides that the taxable value of property for the determination of school district property values is reduced by the appraised value of property or that portion of property on which the collection of delinquent taxes has been deferred.

## Property Tax for Change of Use of Land - S.B. 1033

*by Senator Harris*

*House Sponsor: Representative Hawley*

- △ Waives the rollback property tax for land that changed from a qualifying open-space use if the change of use occurred as a result of a transfer of the property to the state or a political subdivision of the state to be used for a public purpose.

## Property Tax Abatements and Reinvestment Zones - S.B.

1557 (Filed in the House)

*by Senator Chiles, et al.*

**Not Finally Passed**

- △ Prohibits school districts from entering into tax abatement agreements authorized by the Tax Increment Financing Act after September 1, 1997, and from increasing their level of financial participation in tax abatement agreements entered into before September 1, 1997.
- △ Prohibits school districts from entering into tax abatement agreements authorized by the Property Redevelopment and Tax Abatement Act, on or after September 1, 1997, and from making certain modifications to a tax abatement agreements entered into on or after September 1, 1997.
- △ Excludes from the definition of a "Taxing Unit," for a reinvestment zone created or a tax abatement agreement executed on or after September 1, 1997, a school district that is subject to guidelines set forth in Chapter 42 of the Education code (Foundation School Program) and organized primarily to provide general elementary and secondary public education.
- △ Prohibits a project plan for the development of redevelopment of a reinvestment zone, or a reinvestment zone financing plan approved before September 1, 1997, from being amended on or after September 1, 1997, to increase the percentage of a tax increment to be contributed by a school district to a tax increment fund; to increase the duration of time a school district is to contribute to a tax increment fund; to allow a school district that was not included in the originally approved project plan or reinvestment zone financing plan to contribute a tax increment or any other funds to a tax increment fund; or to allow a school district to pay into a tax increment fund any additional tax increment or funds derived from property added to the reinvestment zone.

## **Tax Freeze on the Homesteads of the Elderly - S.J.R. 43**

*by Senator Cain*

*House Sponsor: Representative Hilbert*

- △ Proposes a constitutional amendment to authorize the legislature to limit the maximum average annual percentage increase in the appraised value of residence homesteads for ad valorem tax purposes to 10 percent, or a greater percentage, for each year since the most recent tax appraisal. A limitation on appraisal increases:
  - △ takes effect for a residence homestead on the later of the effective date of the law imposing the limitation or the January 1 of the tax year following the first tax year the owner qualified for a residence homestead exemption; and
  - △ expires on January 1 of the first tax year that neither the owner nor the owner's surviving spouse qualifies for a residence homestead exemption.
- △ Authorizes the legislature to provide for the transfer of all or a proportionate amount of the constitutional limitation on increases of ad valorem taxes for general elementary and secondary public school purposes imposed on the residence homestead of a person of 65 years of age or older to a subsequently established different residential homestead. Provides that this proposed amendment shall be submitted to the voters only if the constitutional amendment proposed by H.J.R. 4 of the 75th Legislature is not approved by the voters.
- △ Provides that if the legislature provides for such transfer, the legislature may authorize the governing body of a school district to elect to apply the law providing for such transfer to a change in a person's residence homestead that occurred before the law took effect, subject to any statutory restrictions. The transfer may apply only to taxes imposed in a tax year after the tax year the election is made. **Ballot Date: November 4, 1997.**

## **Property Tax Exemption - S.J.R. 45**

*by Senator Brown*

*House Sponsor: Representative Lewis*

- △ Proposes a constitutional amendment to authorize the legislature to permit a local government taxing unit to grant an exemption or other relief from property taxes on which a water conservation initiative has been implemented. **Ballot Date: November 4, 1997.**

## Property Tax Relief/Lottery Dedication - H.B. 4

*by Representative Junell, et al.*

*Senate Sponsors: Senators Armbrister and Bivins*

- △ Increases the homestead exemption from \$5,000 to \$15,000 of the appraised value of a residence homestead for school district property tax purposes. Requires the exemption increase to be ratified by the voters on August 9, 1997, before it takes effect.
- △ Authorizes people 65 years of age or older to transfer a proportionate amount of their frozen property tax levy from their current homesteads to newly purchased homes. Requires this provision to be ratified by the voters on August 9, 1997, before it takes effect.
- △ Provides that only school district maintenance and operation tax revenue is eligible for recapture; tax revenue generated to pay off bonds for facilities construction is no longer considered in determining a wealthy district's recapture amount.
- △ Creates an instructional facilities allotment beginning with the 1997-98 school year that guarantees \$28 per student in state and local funds for each cent of tax effort up to a maximum rate to pay the principal and interest on eligible bonds. Requires the commissioner of education to award state assistance for facilities using a priority scale beginning with the district having the lowest wealth per student.
- △ Provides additional money in the school finance system for school districts to pay for increases in the minimum salary schedule for teachers. Increases the minimum number of days of service for a teacher under a 10-month contract to 186 days for the 1997-98 school year and 187 days for the 1998-99 school year.
- △ Provides that if a school district adopts a tax rate which exceeds the district's rollback tax rate, the voters of the district must approve the adopted tax rate.
  - △ Provides that if a school district is certified by the commissioner of education to have been subject to a reduction in total revenue for the school year ending on August 31 of the tax year, the district's rollback tax rate for the tax year is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction certified by the commissioner.

- △ Provides that in a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit system's abolition is added to the district's rollback tax rate.
- △ Provides calculations for the rollback tax rate of a school district, and specifies the rollback tax rate calculation for the 1997 and 1998 tax years.
- △ Appropriates \$1.04 billion for the biennium through the Foundation School Program.
- △ Dedicates net lottery revenue to the Foundation School Fund to support the public schools of Texas. Reduces prize money to lottery winners by 5 percent.

**Note:** The constitutional amendment for this legislation is H.J.R. 4.

### **Tax Reform and Public School Finance - H.J.R. 4**

*by Representative Craddick, et al.*

*Senate Sponsors: Senators Armbrister and Bivins*

- △ Provides that \$15,000, rather than \$5,000, of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. **Ballot Date: August 9, 1997.**
- △ Allows the legislature to provide that all or part of the exemption does not apply to a district or political subdivision that imposes taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory.
- △ Allows the legislature to provide for the transfer of all or a proportionate amount of a limitation for a person who qualifies for the limitation and establishes a different residence homestead.
- △ Requires the legislature, for a residence homestead subject to a limitation in the 1996 tax year or an earlier tax year, to provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to \$10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.
- △ Requires this constitutional amendment to be submitted to the voters at an election to be held on August 9, 1997.

**Note:** The enabling legislation for this constitutional amendment is H.B. 4.

## **Property Tax Payments on Appeal - H.B. 2201**

*by Representatives Stiles and Price*

*Senate Sponsor: Senator Ratliff*

- △ Deletes the requirement that taxpayers pay the taxes imposed on the property in the preceding year in order to proceed to a final determination of a property appraisal appeal.
- △ Authorizes a property owner who prevails in an appeal for remedy for excessive appraisal, to be awarded reasonable attorney's fees, not exceeding the lesser of \$100,000 or the total amount by which the property owner's tax liability is reduced as a result of the appeal.
- △ Provides that a property owner, with a tax liability remaining after final determination of an appeal, is liable for the remaining delinquent tax and certain penalties and interest, as if the tax became delinquent on the original delinquency date.
- △ Provides that a property owner who did not pay taxes because the court found that payment would constitute an unreasonable restraint on the owner's right of access to the courts, after final determination of an appeal, is liable for the delinquent tax with interest as if the tax became delinquent on the original delinquency date.

## **Charitable Property Tax Exemptions - H.B. 2383**

*by Representative Hochberg*

*Senate Sponsor: Senator Cain*

- △ Requires charitable, youth development, religious, and private school organizations applying for a charitable property tax exemption to use their property to perform their principal functions or perform the principal charitable functions of a similar organization.
- △ Removes the requirement that an organization pledge its assets in performing its function, and allows the organization to transfer its assets to the United States government if the organization was discontinued.
- △ Allows a property tax exemption for a private school to remain in effect if a new owner authorizes the former owner to continue to operate the school and use the property for the same qualifying school purposes, and if the former owner continued to own the property and remained entitled to the exemption.
- △ Extends the deadline for which a late application for a school exemption may be filed to December 31, 1997.

**Property Tax Authorization - H.J.R. 96 and H.B. 2649**

*by Representative Hamric*  
*Senate Sponsor: Senator Lindsay*

- Δ Proposes a constitutional amendment increasing the amount of property tax the legislature has the power to authorize on property in rural fire prevention districts located in whole or in part in Harris County, from no more than 3¢ per \$100 valuation, to no more than 5¢ per \$100 valuation of the property.  
**Ballot Date: November 4, 1997.**
  
- Δ Authorizes the board of fire commissioners of a rural fire prevention district located partially or wholly within Harris County to order an election to increase the maximum tax rate up to 5 cents per \$100 valuation of property.

## Telecommunications Infrastructure Fund - S.B. 249

*by Senator Sibley*

*House Sponsor: Representative Sylvester Turner*

- △ Establishes a 1.25 percent assessment rate on taxable receipts of telecommunications utilities and commercial mobile providers to be deposited into the Telecommunications Infrastructure Fund (TIF).
  - △ Sets a maximum amount of \$1.5 billion that can be deposited in the TIF, excluding interest and loan payments.
  - △ Requires the Comptroller of Public Accounts (comptroller) to assess annually the fund level, and authorizes a revision of the assessment rate to ensure that the fund does not exceed \$1.5 billion.
  - △ Requires the comptroller to deposit 50 percent of the amounts collected to the public schools account in the TIF and to deposit the remaining funds to the qualifying entities (such as higher education institutions, nonprofit hospitals, and libraries) account in the TIF.

## “Phone Slamming” - S.B. 253

*by Senator Barrientos, et al.*

*House Sponsor: Representative Danburg, et al.*

- △ Makes it illegal for telecommunications providers to switch a customer’s service without the customer’s authorization.
  - △ Authorizes the Public Utility Commission (PUC) to adopt rules to prevent unauthorized switching.
  - △ Requires providers to obtain authorization to switch a customer’s service by written documentation, toll-free electronic authorization placed from the phone subject to switching, oral authorization obtained by an independent third party, or a mailing to the customer.
  - △ Requires an unauthorized or unverifiable change in a customer’s service to be reversed in a certain time period.
  - △ Requires a provider who illegally switches a customer to pay all usual charges associated with a typical legal switching action.
  - △ Authorizes the PUC to take corrective actions or administer penalties, such as suspending, revoking, or restricting the registration or certification of a provider, for violations of rules pertaining to this bill.

# TELECOMMUNICATIONS & UTILITIES

## Telecommunication Devices for Persons with Disabilities- S.B. 667

*by Senator Barrientos, et al.*

*House Sponsor: Representative Naishtat*

- △ Requires the Public Utility Commission (PUC) and the Texas Commission for the Deaf and Hard of Hearing (TCDHH) to create a program to financially assist individuals who are deaf, hard of hearing, or speech impaired to purchase specialized telecommunications devices for telephone service access.
- △ Requires TCDHH to determine a reasonable price for a basic telecommunications device for the deaf, and distribute to each eligible applicant a voucher that guarantees payment of that amount.
- △ Requires the payments to be made from the universal service fund, which is funded by local exchange companies.
- △ Authorize companies to recover this cost through a surcharge added to the utility's customers' bills.

## Utility Service to Colonias - S.B. 1512

*by Senator Truan, et al.*

*House Sponsor: Representative Rangel*

- △ Allows utilities to provide utility services to residents who purchase lots prior to July 1, 1995, which have no utility service.
  - △ Prohibits utilities from bringing new services into subdivisions that are not platted.
  - △ Allows certain residents who purchased lots without utility services to hook up to services that already exist in their subdivision.

## Municipalities and Telecommunications Right-of-Way - S.B. 1937

*by Senator Lucio*

*House Sponsor: Representative Carter*

- △ Establishes a joint interim committee to investigate, report, and make legislative recommendations regarding municipal franchise policy pertaining to telecommunication and cable television issues.
  - △ Ensures the ability of municipalities to exercise their authority to manage the public right-of-way.

- Δ Requires the committee to investigate certain issues, including:
  - Δ consistency and compensation methodology of franchise agreements;
  - Δ costs incurred by municipalities because of right-of-way and public property usage by utilities providing telecommunication services; and
  - Δ revenue generated for the municipalities resulting from telecommunication utilities providing services.
- Δ Requires the PUC to ensure customers receive refunds for overcharges by public utilities.

## **Regulation of Technology - H.B. 1482**

*by Representative Carter, et al.*

*Senator Sponsor: Senator Armbrister*

- Δ Provides for improved regulation of computer and telecommunications equipment and services.
  - Δ Makes a breach of computer security a Class C misdemeanor.
  - Δ Makes the manufacture, possession, delivery, or advertisement of an unlawful telecommunications device a third degree felony.
  - Δ Makes the unauthorized use or theft of telecommunications services a Class B misdemeanor.

## **Limitations on Telephone Solicitations - H.B. 2128**

*by Representative Janek, et al.*

*Senator Sponsor: Senator Barrientos*

- Δ Requires telephone solicitors to stop blocking their identity when calling potential customers who may have caller identification devices, and imposes a time limit on automatically dialed calls to consumers.
  - Δ Prohibits a person from operating an automatic dialing device for telephone solicitation unless the message is 30 seconds or shorter.
  - Δ Allows the PUC to use the proceeds from administrative penalties deposited to the credit of the PUC.
  - Δ Requires the PUC to conduct an educational program to inform the public of their rights pertaining to this Act.

## 9-1-1 Fees for Wireless Providers - H.B. 2129

*by Representative Carter, et al.*

*Senator Sponsor: Senator Lucio*

- Δ Requires all wireless providers to charge a fee on all cellular phones they provide service for and remit the funds to the Advisory Commission on State Emergency Communications (ACSEC).
  - Δ Requires ACSEC to set a statewide 9-1-1 access charge for 9-1-1 calls made from cellular phones.
  - Δ Caps the access charge at \$0.50.
  - Δ Provides that a wireless provider is not required to take legal action to enforce the collection of any wireless 9-1-1 service fee.

## Study Exemption for Electric Cooperatives - H.B. 3037

*by Representative Cook*

*Senate Sponsor: Senator Armbrister*

- Δ Eliminates the requirement that an electric cooperative corporation complete a cost of service study when proposing a rate change, if the rate change is uncontested and the PUC determines the study is unnecessary.

## **Speed Limits on Toll Roads - S.B. 161**

*by Senator Lindsay*

*House Sponsor: Representative Elkins*

- Δ Authorizes the commissioners court of Harris County to establish a speed limit of not more than 70 miles per hour on limited-access or controlled-access highways, such as toll roads, within the county.

## **Towable Recreational Vehicles - S.B. 343**

*by Senator Harris*

*House Sponsors: Representatives Brimer and Hirschi*

- Δ Establishes speed limits of towable recreational vehicles for certain areas.
- Δ Distinguishes a “towable recreational vehicle” from a “house recreational vehicle” in the Transportation Code.

## **Texas Department of Transportation/Sunset - S.B. 370**

*by Senator Armbrister, et al.*

*House Sponsor: Representative Bosse, et al.*

- Δ Continues the Texas Department of Transportation (TxDOT) for a 12-year period, consolidates the functions of the Texas Turnpike Authority within TxDOT as a separate independent division, provides for the creation of a regional turnpike authority, and makes various statutory modifications recommended by the Sunset Advisory Commission.

## **Studying the Effects of Increased Truck Traffic - S.B. 566**

*by Senator Truan, et al.*

*House Sponsors: Representatives Chavez and Hunter*

- Δ Requires TxDOT to study the origin and destination of goods transported over highways in this state, paying particular attention to the increase in commercial traffic resulting from the North American Free Trade Agreement.
- Δ Requires TxDOT to identify highways that need to be designated for construction, expansion, and maintenance because of the increase in international trade.

## **Commuter Rail Districts Between Cities - S.B. 657**

*by Senator Barrientos, et al.*

*House Sponsor: Representative Siebert*

- △ Establishes guidelines for the development and regulation of intermunicipal commuter rail districts to provide commuter rail services between cities that are located no farther than 100 miles apart.

## **Designation of Highway Truck Lanes - S.B. 773**

*by Senator Lindsay*

*House Sponsor: Representative Mowery*

- △ Authorizes a municipality to restrict truck traffic to designated lanes on certain highways.

## **Funding for Passenger Rail - S.B. 1706**

*by Senator Ratliff*

*House Sponsor: Representative Junell*

- △ Enables TxDOT to enter into a loan agreement with the National Railroad Passenger Corporation (Amtrak) to support the continuation of the Texas Eagle.
  - △ Authorizes TxDOT to seek a guarantee from municipalities served by the Texas Eagle for the repayment of half of any unpaid balance on a loan, including interest, made under this bill.

## **Police Use of Ports-of-Entry - S.B. 1828**

*by Senator Shapleigh*

*House Sponsor: Representative Pickett*

- △ Provides Department of Public Safety officers and other certified peace officers statutory authority to use ports-of-entry into Texas from Mexico for the following purposes:
  - △ weighing and inspecting trucks coming into Texas from Mexico;
  - △ issuing permits for the movement of oversized and overweight vehicles carrying cargo on state, county, or municipal roads; and
  - △ detaining vehicles that have been determined to violate federal or state safety regulations.

## Posting of "Skull & Cross Bones" Traffic Safety Signs - H.B. 17

*by Representative Chisum*  
*Senate Sponsor: Senator Bivins*

- Δ Authorizes TxDOT to implement a traffic program that includes posting signs along the roadside at the 500 sites with the highest number of traffic fatalities.
- Δ Authorizes the signs to contain the number of fatalities that occurred at that location in the last 10 years, the importance of driving safely and wearing seat belts, the importance of not drinking and driving, and any other information TxDOT determines is necessary to promote public safety.

## Heavy Equipment on State Highways - H.B. 1345

*by Representative Uher*  
*Senate Sponsor: Senator Armbrister*

- Δ Authorizes TxDOT to issue an annual permit, with a fee, to allow the operation on a state highway of equipment that exceeds weight and size limits provided by law for the movement of water well drilling machinery and agricultural equipment.

## Registration of Freight Forwarders - H.B. 1487

*by Representative Cuellar*  
*Senate Sponsor: Senator Truan*

- Δ Requires freight forwarders (entities that consolidate cargo and buy space on trucks and aircraft) to register with the Commissioner of Licensing and Regulation.

## Texas Motor Vehicle Board - H.B. 1595

*by Representative Alexander*  
*Senate Sponsor: Senator Cain*

- Δ Replaces the Texas Motor Vehicle Commission with the Texas Motor Vehicle Board as an independent regulatory entity within the Texas Department of Transportation, and provides additional regulations regarding motor vehicle dealers and manufacturers.

## **Motor Vehicle Reflective Devices - H.B. 2138**

*by Representative Hawley  
Senate Sponsor: Senator Cain*

- △ Requires vehicle lighting, reflective devices, and associated equipment to comply with federal standards either as they currently exist or as they existed at the time the vehicle was manufactured.

## **Creation of a Rural Rail Transportation District by One County - H.B. 2462**

*by Representative Pitts  
Senate Sponsor: Senator Nelson*

- △ Authorizes a commissioners court of a county that meets certain requirements to create a rural rail transportation district for the purposes of developing, financing, maintaining, and operating a new rail system.
- △ Sets forth provisions regarding the boundaries of such a district as well as designation of a district name, appointment to the board of directors of a district, and dissolution of a district.

## **JOBS Program/Voluntary Participants - S.B. 57**

*by Senator Zaffirini*

*House Sponsors: Representatives Hilderbran and Naishtat*

- Δ Changes the participation requirement for certain welfare recipients in the Jobs Opportunities and Basic Skills (JOBS) training program and ensures that only those volunteers who actually participate in the JOBS program are eligible for additional transitional benefits.

## **JOBS Program/Child Support Recipients - S.B. 58**

*by Senator Zaffirini*

*House Sponsors: Representatives Hilderbran and Naishtat*

- Δ Authorizes certain welfare recipients to complete education or training programs while receiving transitional child care.
  - Δ Authorizes a person participating in education or training programs to complete those activities, if the person becomes ineligible to receive financial assistance because the person receives child support.

## **Failure to Pay An Employee's Wages - S.B. 167**

*by Senator Harris*

*House Sponsor: Representative Smith*

- Δ Provides that an employer commits an offense if the employer intends to avoid the payment of wages owed to an employee; intends to continue to employ the employee; and fails, after demand, to pay those wages.
- Δ Provides that an employer commits a separate offense for each pay period during which the employee earns wages that the employer fails to pay.

## **Workforce Service Delivery - S.B. 417**

*by Senators Ellis and Harris*

*House Sponsor: Representative Naishtat*

- Δ Requires the Texas Workforce Commission (TWC) to prepare a comprehensive report on the efforts made by Texas in integrating the delivery of state services regarding certain workforce development programs.

## Texans Work Program - S.B. 781

*by Senator Ellis, et al.*

*House Sponsor: Representative Raymond*

- △ Creates a Texans Work on-the-job training program (program) as an integrated system of on-the-job training for persons who receive public assistance.
  - △ Provides that the intent of the bill is to enlist employers in a partnership with the state to assist recipients of public assistance in developing marketable work skills and obtaining employment.
- △ Requires the program:
  - △ to be considered a means-tested program;
  - △ to be operated through courses conducted by participating employers;
  - △ to offer direct work experience and skills training; and
  - △ to be offered in each area of the state in which an officially approved employer is located.
- △ Requires TWC to adopt rules to implement the program, and, in cooperation with the Texas Skill Standards Board, to develop guidelines for the approval of employer training courses.
  - △ Requires TWC, in determining whether to approve a particular training course, to consider several factors including the administrative burden imposed on the employer; the ability of the training to enhance employability of the trainees; the intention of the employer to retain successful trainees as employees; and the prior performance of the employer in meeting guidelines.
  - △ Authorizes TWC to develop incentives for employers to hire successful trainees as regular employees for at least one year.
- △ Requires the Texas Department of Human Services (DHS) to provide to TWC and a local workforce development board information and technical assistance in implementing the program.
- △ Sets forth the rights and duties of participating employers, regular employers, and participating trainees.

# WORKFORCE DEVELOPMENT

- △ Requires the state to pay a monthly stipend of \$600 to each trainee who demonstrates satisfactory participation in a training program.
  - △ Provides that the stipend does not constitute income for the purposes of eligibility for food stamps and public financial assistance.
- △ Requires TWC to establish and implement a pilot program under which an individual development account is established for a recipient of financial assistance, who is employed by a person in the private sector through a subsidized Texas employment program.
  - △ Allows DHS, after consulting with TWC, to place limits on the amount of money contributed to a recipient's individual development account not considered as income for purposes of food stamp and public assistance eligibility.

## **"Wheels for Work" Program - S.B. 1114**

*by Senator Ellis, et al.*

*House Sponsor: Representative Coleman*

- △ Requires TWC of public assistance in an effort to help those persons find and maintain employment.

## **Job Retention and Reemployment Assistance - S.B. 1262**

*by Senator Ellis, et al.*

*House Sponsor: Representative Naishtat*

- △ Authorizes the workforce development division of TWC to provide ongoing job retention and reemployment assistance for a recipient of public assistance who has participated in a job training program.
- △ Authorizes TWC, in providing job training and employment services and child care to eligible persons, to establish a need-based formula to allocate funds to local workforce development areas in order to ensure compliance with federal participation requirements.
- △ Requires the DHS, in providing work skills and job readiness training to:
  - △ emphasize training for sustainable wage jobs;
  - △ promote understanding of nontraditional work opportunities for recipients; and
  - △ offer alternative assistance in areas where jobs are scarce.

## **Earned Income Tax Credits - S.B. 1263**

*by Senator Ellis, et al.*

*House Sponsor: Representative Naishtat*

- △ Requires TWC and workforce development centers to provide information and assistance to individuals regarding the earned income tax credit.

## **Workforce Training on Child Care Services - S.B. 1490**

*by Senators Ellis and West*

*House Sponsors: Representatives Coleman and Greenberg*

- △ Requires TWC to provide training to members of local workforce development boards regarding the management of child care services and to encourage members to be advocates for the improvement of child care quality.
- △ Transfers appointment of members to the State Advisory Committee on Child Care Programs from the Board of Human Services to TWC.

## **Texas Youthworks Program - S.B. 1810**

*by Senator Barrientos, et al.*

*House Sponsor: Representative Dukes*

- △ Creates the Texas Youthworks Program (program), administered by the Texas Department of Housing and Community Affairs (TDHCA):
  - △ to promote the economic self-sufficiency of disadvantaged or at-risk youth by providing the youth with opportunities to acquire job skills while performing community service activities; and
  - △ to create opportunities for communities to restore abandoned properties and historic areas, enhance public places, and increase the availability of affordable, energy-efficient housing for individuals and families of low and very low income.
- △ Provides that the program is funded by available money identified by TDHCA or other state agencies.
- △ Requires an entity, in order to receive grants, to provide certain services to eligible participants, unless the entity excepts the participant requirements listed below.

## WORKFORCE DEVELOPMENT

- Δ Requires a participant to be a person who is between 16 and 24 years old, has dropped out of high school or has been determined as at-risk for dropping out of high school and is not attending a program leading toward high school graduation or obtaining a GED, meets certain low-income family requirements, and is errant, homeless, or a potential ward of the juvenile or criminal justice system, is referred by another state agency, or is educationally disadvantaged.
  
- Δ Requires a project that receives a grant from the program to provide certain benefits to the community. The bill also requires services for a youth in the program to include:
  - Δ integrated job and education training;
  
  - Δ direct access to counseling, support services, leadership training, and assistance in making the transition from training to economic self-sufficiency;
  
  - Δ a training stipend for up to two years conditioned on the youth's demonstrating improved job performance and personal responsibility; and
  
  - Δ an opportunity to earn scholarship awards for college tuition.
  
- Δ Sets forth provisions for the advisory board, a participant council, grant applications, and annual reporting.
  
- Δ Establishes an interagency work group to assist TDHCA in implementing and promoting the Texas Youthworks Program.

### **Discriminatory Use of Genetic Information - H.B. 39**

*by Representative McCall, et al.  
Senate Sponsor: Senator Zaffirini*

#### ***Prohibited Use of Genetic Information***

- Δ Provides that an employer, a labor organization, or an employment agency commits an unlawful employment practice if the employer, the labor organization, or the employment agency discriminates against an individual on the basis of genetic information concerning the individual or because of the refusal of the individual to submit to a genetic test.

## WORKFORCE DEVELOPMENT

- △ Prohibits a licensing authority from denying an application for an occupational license; from suspending, revoking, or refusing to renew an occupational license; or from taking any other disciplinary action against a license holder based on the refusal of the license applicant or license holder to submit to a genetic test, or to reveal whether the applicant or holder has submitted to a genetic test, or the results of any genetic test to which the applicant or holder has submitted.
- △ Prohibits a group health benefit plan issuer from using genetic information to reject, deny, limit, cancel, refuse to renew, increase the premiums for, or otherwise adversely affect eligibility for a coverage under the group health benefit plan.
  - △ Prohibits an issuer of a group health benefit plan from requiring, as a condition of insurance coverage, genetic testing of a child in utero without the consent of the pregnant woman.
  - △ Prohibits an issuer of a group health plan from using genetic information to coerce or compel a pregnant woman to have an induced abortion.

### *Confidential Information, Right to Know Test Results, & Retention of Sample Provisions*

- △ Makes genetic information confidential and prohibits the disclosure of the information unless authorized by the individual. Provides that the "no disclosure" rule is applicable to a redisclosure of genetic information by a secondary recipient of the information. Sets forth exceptions to the "no disclosure" rule.
- △ Provides that an individual who submits to a genetic test has the right to know the results of that test.
- △ Requires a sample of genetic material taken for a genetic test from an individual to be destroyed promptly after the purpose for which the sample was obtained is accomplished except under certain conditions.
  - △ Prohibits an issuer of a group health plan from using genetic information to coerce or compel a pregnant woman to have an induced abortion.

## TWC Apprenticeship and Training Advisory Committee -

**H.B. 1008**

*by Representative Rodriguez*  
*Senate Sponsor: Senator Madla*

- Δ Establishes the Apprenticeship and Training Advisory Committee within the Texas Workforce Commission for the purposes of recommending and evaluating a statewide plan for the development of a comprehensive program of apprenticeship training.

## AIDS and HIV Definitions - H.B. 220

*by Representative Maxey*  
*Senate Sponsor: Senator Gallegos*

- Δ Redefines "disability" to make the Labor Code consistent with the federal Americans with Disabilities Act and to delete any unnecessary duplication of AIDS or HIV that may exist within the definition.

## Policies of State Agencies Regarding Work and Family Issues - H.B. 425

*by Representative Raymond, et al.*  
*Senate Sponsor: Senator Ellis*

- Δ Adds a representative of the Child Care Development Board and two representatives of state agencies to the Work and Family Policies Advisory Committee to assist state agencies in developing policies to help employees meet work and family responsibilities.

## Unemployment Compensation Act - H.B. 567

*by Representatives Oliveira and Yarbrough*  
*Senate Sponsor: Senator Ellis*

- Δ Adopts revisions to the Texas Unemployment Compensation Act, recommended by TWC.
  - Δ Deletes obsolete taxable wage amounts and a reference to an obsolete provision of the Internal Revenue Code.
  - Δ Allows money in a special administration fund to be spent to enforce child labor, payment of wages, minimum wage law, and pay for privatizing certain tax collections.

## Unemployment Benefits Following Disciplinary Action - H.B. 1720

*by Representative Siebert, et al.*  
*Senate Sponsor: Senator Carona*

- △ Provides that an individual is not partially unemployed for a benefit period in which the individual's working hours are reduced by the individual's employer as a result of disciplinary action.

## Temporary Employment Services - H.B. 1761

*by Representative Chavez, et al.*  
*Senate Sponsor: Senator Shapleigh*

- △ Prohibits a temporary employment agency from denying an application or placement in a job to an individual solely because the individual does not have a high school diploma or GED when the job does not require such a degree.

## Guidance for Work Supplementation Programs - H.B. 3116

*by Representatives Greenberg and Oliveira*  
*Senate Sponsor: Senator Ellis*

- △ Prohibits an employer from hiring a welfare recipient under a work supplementation program if the hiring displaces an existing employee, eliminates a vacant position created by the layoff of an employee in the preceding 30 days, or is the result of a strike.
- △ Provides that a participant in a work supplementation program is considered an employee for the purposes of state and federal law, is entitled to receive compensation at a rate that is not less than the rate the employer pays other employees with similar background, training, or experience who are performing the same type of work; and is entitled to the same rights as other employees under any applicable grievance procedures.
- △ Prohibits an employer participating in a work supplementation program from requiring an employee to join or refrain from joining a labor organization as a condition of employment.
- △ Requires TWC to prepare an assessment on the ability of recipients of public assistance to find employment.
- △ Excludes certain work supplementation programs or a volunteer work experience program from provisions.



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